

**COMMITTEE PRINT CONSISTING OF  
SUBTITLES F, G, H, AND J**

**Budget Reconciliation Legislative Recommendations Relating  
to Infrastructure Financing, Green Energy, Social Safety  
Net, and Prescription Drug Pricing**

1 **Subtitle F—Infrastructure Financ-**  
2 **ing and Community Develop-**  
3 **ment**

4 **SEC. 135001. AMENDMENT OF 1986 CODE.**

5 Except as otherwise expressly provided, whenever in  
6 this subtitle an amendment or repeal is expressed in terms  
7 of an amendment to, or repeal of, a section or other provi-  
8 sion, the reference shall be considered to be made to a  
9 section or other provision of the Internal Revenue Code  
10 of 1986.

11 **PART 1—INFRASTRUCTURE FINANCING**

12 **Subpart A—Bond Financing**

13 **SEC. 135101. CREDIT TO ISSUER FOR CERTAIN INFRA-**  
14 **STRUCTURE BONDS.**

15 (a) **IN GENERAL.**—Subchapter B of chapter 65 is  
16 amended by inserting before section 6432 the following  
17 new section:

1 **“SEC. 6431A. CREDIT ALLOWED TO ISSUER FOR QUALIFIED**  
 2 **INFRASTRUCTURE BONDS.**

3 “(a) IN GENERAL.—In the case of a qualified infra-  
 4 structure bond, the issuer of such bond shall be allowed  
 5 a credit with respect to each interest payment under such  
 6 bond which shall be payable by the Secretary as provided  
 7 in subsection (b).

8 “(b) PAYMENT OF CREDIT.—

9 “(1) IN GENERAL.—The Secretary shall pay  
 10 (contemporaneously with each date on which interest  
 11 is paid, including any interest paid after the origi-  
 12 nally scheduled payment date) to the issuer of such  
 13 bond (or, at the direction of the issuer, to any per-  
 14 son who makes such interest payments on behalf of  
 15 such issuer) an amount equal to the applicable per-  
 16 centage of such interest so paid.

17 “(2) APPLICABLE PERCENTAGE.—For purposes  
 18 of this subsection, except as provided in subsection  
 19 (d), the applicable percentage with respect to any  
 20 bond shall be determined under the following table:

<b>“In the case of a bond issued The applicable percentage is:</b>	
<b>during calendar year:</b>	
2022 through 2024 .....	35%
2025 .....	32%
2026 .....	30%
2027 and thereafter .....	28%

21 “(3) LIMITATION.—

22 “(A) IN GENERAL.—The amount of any  
 23 interest payment taken into account under

1 paragraph (1) with respect to a bond for any  
2 payment date shall not exceed the amount of  
3 interest which would have been payable under  
4 such bond for such payment date if interest  
5 were determined at the applicable credit rate  
6 multiplied by the applicable amount for such  
7 bond for such payment date.

8 “(B) APPLICABLE CREDIT RATE.—For  
9 purposes of subparagraph (A)—

10 “(i) IN GENERAL.—The applicable  
11 credit rate is the rate which the Secretary  
12 estimates will permit the issuance of quali-  
13 fied infrastructure bonds with a specified  
14 maturity or redemption date without dis-  
15 count and without additional interest cost  
16 to the issuer.

17 “(ii) DATE OF DETERMINATION.—The  
18 applicable credit rate with respect to any  
19 qualified infrastructure bond shall be de-  
20 termined as of the first day on which there  
21 is a binding, written contract for the sale  
22 or exchange of the bond.

23 “(C) APPLICABLE AMOUNT.—

24 “(i) BONDS WITH MORE THAN DE  
25 MINIMIS ORIGINAL ISSUE DISCOUNT.—In

1 the case of any bond that has more than  
2 a de minimis amount of original issue dis-  
3 count (determined under the rules of sec-  
4 tion 1273(a)(3)), the applicable amount for  
5 a payment date is the issue price of such  
6 bond (within the meaning of section 148),  
7 as adjusted for any principal payments  
8 made prior to such date.

9 “(ii) OTHER BONDS.—In the case of  
10 any other bond, the applicable amount for  
11 a payment date is the outstanding prin-  
12 cipal amount of such bond on such pay-  
13 ment date (determined without taking into  
14 account any principal payment on such  
15 bond on such date).

16 “(c) QUALIFIED INFRASTRUCTURE BOND.—

17 “(1) IN GENERAL.—For purposes of this sec-  
18 tion, the term ‘qualified infrastructure bond’ means  
19 any bond (other than a private activity bond) issued  
20 as part of an issue if—

21 “(A) 100 percent of the excess of available  
22 project proceeds of such issue over the amounts  
23 in a reasonably required reserve (within the  
24 meaning of section 150(a)(3)) with respect to  
25 such issue are to be used for—

1           “(i) capital expenditures or operations  
2           and maintenance expenditures in connec-  
3           tion with property the acquisition, con-  
4           struction, or improvement of which would  
5           be a capital expenditure, or

6           “(ii) payments made by a State or po-  
7           litical subdivision of a State to a custodian  
8           of a rail corridor for purposes of the trans-  
9           fer, lease, sale, or acquisition of an estab-  
10          lished railroad right-of-way consistent with  
11          section 8(d) of the National Trails Act of  
12          1968, but only if the Surface Transpor-  
13          tation Board has issued a certificate of in-  
14          terim trail use or notice of interim trail use  
15          for purposes of authorizing such transfer,  
16          lease, sale, or acquisition,

17          “(B) the interest on such bond would (but  
18          for this section) be excludable from gross in-  
19          come under section 103,

20          “(C) the issue price has not more than a  
21          de minimis amount (determined under rules  
22          similar to the rules of section 1273(a)(3)) of  
23          premium over the stated principal amount of  
24          the bond, and

1           “(D) prior to the issuance of such bond,  
2           the issuer makes an irrevocable election to have  
3           this section apply.

4           “(2) APPLICABLE RULES.—For purposes of ap-  
5           plying paragraph (1)—

6           “(A) NOT TREATED AS FEDERALLY GUAR-  
7           ANTEED.—For purposes of section 149(b), a  
8           qualified infrastructure bond shall not be treat-  
9           ed as federally guaranteed by reason of the  
10          credit allowed under this section.

11          “(B) APPLICATION OF ARBITRAGE  
12          RULES.—For purposes of section 148, the yield  
13          on a qualified infrastructure bond shall be re-  
14          duced by the credit allowed under this section,  
15          except that no such reduction shall apply in de-  
16          termining the amount of gross proceeds of an  
17          issue that qualifies as a reasonably required re-  
18          serve or replacement fund.

19          “(d) DEFINITION AND SPECIAL RULES.—For pur-  
20          poses of this section—

21          “(1) INTEREST INCLUDIBLE IN GROSS IN-  
22          COME.—For purposes of this title, interest on any  
23          qualified infrastructure bond shall be includible in  
24          gross income.

1           “(2) AVAILABLE PROJECT PROCEEDS.—The  
2           term ‘available project proceeds’ means—

3                   “(A) the excess of—

4                           “(i) the proceeds from the sale of an  
5                           issue, over

6                           “(ii) issuance costs financed by the  
7                           issue (to the extent that such costs do not  
8                           exceed 2 percent of such proceeds), and

9                   “(B) the proceeds from any investment of  
10           the excess described in subparagraph (A).

11           “(3) CURRENT REFUNDINGS ALLOWED.—

12                   “(A) IN GENERAL.—In the case of a bond  
13           issued to refund a qualified infrastructure bond,  
14           such refunding bond shall not be treated as a  
15           qualified infrastructure bond for purposes of  
16           this section unless—

17                           “(i) the average maturity date of the  
18                           issue of which the refunding bond is a part  
19                           is not later than the average maturity date  
20                           of the bonds to be refunded by such issue,

21                           “(ii) the amount of the refunding  
22                           bond does not exceed the outstanding  
23                           amount of the refunded bond,

1                   “(iii) the refunded bond is redeemed  
2                   not later than 90 days after the date of the  
3                   issuance of the refunding bond, and

4                   “(iv) the refunded bond was issued  
5                   more than 30 days after the date of the  
6                   enactment of this section.

7                   “(B) APPLICABLE PERCENTAGE LIMITA-  
8                   TION.—The applicable percentage with respect  
9                   to any bond to which subparagraph (A) applies  
10                  shall be 28 percent.

11                  “(C) DETERMINATION OF AVERAGE MATU-  
12                  RITY.—For purposes of subparagraph (A)(i),  
13                  average maturity shall be determined in accord-  
14                  ance with section 147(b)(2)(A).

15                  “(4) APPLICATION OF DAVIS-BACON ACT RE-  
16                  QUIREMENTS WITH RESPECT TO QUALIFIED INFRA-  
17                  STRUCTURE BONDS.—Subchapter IV of chapter 31  
18                  of title 40, United States Code, shall apply to  
19                  projects financed with the proceeds of qualified in-  
20                  frastructure bonds.

21                  “(e) REGULATIONS.—The Secretary may prescribe  
22                  such regulations and other guidance as may be necessary  
23                  or appropriate to carry out this section.”.

24                  (b) GROSS-UP OF PAYMENT TO ISSUERS IN CASE OF  
25                  SEQUESTRATION.—In the case of any payment under sec-

1 tion 6431A of the Internal Revenue Code of 1986 made  
2 after the date of the enactment of this Act to which se-  
3 questration applies, the amount of such payment shall be  
4 increased to an amount equal to—

5 (1) such payment (determined before such se-  
6 questration), multiplied by

7 (2) the quotient obtained by dividing 1 by the  
8 amount by which 1 exceeds the percentage reduction  
9 in such payment pursuant to such sequestration.

10 For purposes of this subsection, the term “sequestration”  
11 means any reduction in direct spending ordered in accord-  
12 ance with a sequestration report prepared by the Director  
13 of the Office and Management and Budget pursuant to  
14 the Balanced Budget and Emergency Deficit Control Act  
15 of 1985 or the Statutory Pay-As-You-Go Act of 2010.

16 (c) CONFORMING AMENDMENTS.—

17 (1) Section 1324(b)(2) of title 31, United  
18 States Code, is amended by striking “or 6431” and  
19 inserting “6431, or 6431A”.

20 (2) The table of sections for subchapter B of  
21 chapter 65 is amended by inserting before the item  
22 relating to section 6432 the following new item:

“Sec. 6431A. Credit allowed to issuer for qualified infrastructure bonds.”.

23 (d) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to bonds issued after December  
25 31, 2021.

1 **SEC. 135102. ADVANCE REFUNDING BONDS.**

2 (a) IN GENERAL.—Section 149(d) is amended—

3 (1) by striking “to advance refund another  
4 bond.” in paragraph (1) and inserting “as part of  
5 an issue described in paragraph (2), (3), or (4).”,

6 (2) by redesignating paragraphs (2) and (3) as  
7 paragraphs (5) and (7), respectively,

8 (3) by inserting after paragraph (1) the fol-  
9 lowing new paragraphs:

10 “(2) CERTAIN PRIVATE ACTIVITY BONDS.—An  
11 issue is described in this paragraph if any bond  
12 (issued as part of such issue) is issued to advance  
13 refund a private activity bond (other than a qualified  
14 501(c)(3) bond).

15 “(3) OTHER BONDS.—

16 “(A) IN GENERAL.—An issue is described  
17 in this paragraph if any bond (issued as part of  
18 such issue), hereinafter in this paragraph re-  
19 ferred to as the ‘refunding bond’, is issued to  
20 advance refund a bond unless—

21 “(i) the refunding bond is only—

22 “(I) the first advance refunding  
23 of the original bond if the original  
24 bond is issued after 1985, or

1                   “(II) the first or second advance  
2                   refunding of the original bond if the  
3                   original bond was issued before 1986,

4                   “(ii) in the case of refunded bonds  
5                   issued before 1986, the refunded bond is  
6                   redeemed not later than the earliest date  
7                   on which such bond may be redeemed at  
8                   par or at a premium of 3 percent or less,

9                   “(iii) in the case of refunded bonds  
10                  issued after 1985, the refunded bond is re-  
11                  deemed not later than the earliest date on  
12                  which such bond may be redeemed,

13                  “(iv) the initial temporary period  
14                  under section 148(c) ends—

15                  “(I) with respect to the proceeds  
16                  of the refunding bond not later than  
17                  30 days after the date of issue of such  
18                  bond, and

19                  “(II) with respect to the proceeds  
20                  of the refunded bond on the date of  
21                  issue of the refunding bond, and

22                  “(v) in the case of refunded bonds to  
23                  which section 148(e) did not apply, on and  
24                  after the date of issue of the refunding  
25                  bond, the amount of proceeds of the re-

1 funded bond invested in higher yielding in-  
2 vestments (as defined in section 148(b))  
3 which are nonpurpose investments (as de-  
4 fined in section 148(f)(6)(A)) does not ex-  
5 ceed—

6 “(I) the amount so invested as  
7 part of a reasonably required reserve  
8 or replacement fund or during an al-  
9 lowable temporary period, and

10 “(II) the amount which is equal  
11 to the lesser of 5 percent of the pro-  
12 ceeds of the issue of which the re-  
13 funded bond is a part or \$100,000 (to  
14 the extent such amount is allocable to  
15 the refunded bond).

16 “(B) SPECIAL RULES FOR REDEMP-  
17 TIONS.—

18 “(i) ISSUER MUST REDEEM ONLY IF  
19 DEBT SERVICE SAVINGS.—Clause (ii) and  
20 (iii) of subparagraph (A) shall apply only  
21 if the issuer may realize present value debt  
22 service savings (determined without regard  
23 to administrative expenses) in connection  
24 with the issue of which the refunding bond  
25 is a part.

1                   “(ii) REDEMPTIONS NOT REQUIRED  
2                   BEFORE 90TH DAY.—For purposes of  
3                   clauses (ii) and (iii) of subparagraph (A),  
4                   the earliest date referred to in such clauses  
5                   shall not be earlier than the 90th day after  
6                   the date of issuance of the refunding bond.

7                   “(4) ABUSIVE TRANSACTIONS PROHIBITED.—  
8                   An issue is described in this paragraph if any bond  
9                   (issued as part of such issue) is issued to advance  
10                  refund another bond and a device is employed in  
11                  connection with the issuance of such issue to obtain  
12                  a material financial advantage (based on arbitrage)  
13                  apart from savings attributable to lower interest  
14                  rates.”, and

15                  (4) by inserting after paragraph (5) (as so re-  
16                  designated) the following new paragraph:

17                  “(6) SPECIAL RULES FOR PURPOSES OF PARA-  
18                  GRAPH (3).—For purposes of paragraph (3), bonds  
19                  issued before October 22, 1986, shall be taken into  
20                  account under subparagraph (A)(i) thereof except—

21                         “(A) a refunding which occurred before  
22                         1986 shall be treated as an advance refunding  
23                         only if the refunding bond was issued more  
24                         than 180 days before the redemption of the re-  
25                         funded bond, and

1           “(B) a bond issued before 1986, shall be  
2           treated as advance refunded no more than once  
3           before March 15, 1986.”.

4           (b)       CONFORMING        AMENDMENT.—Section  
5 148(f)(4)(C) is amended by redesignating clauses (xiv)  
6 through (xvi) as clauses (xv) to (xvii), respectively, and  
7 by inserting after clause (xiii) the following new clause:

8                       “(xiv) DETERMINATION OF INITIAL  
9                       TEMPORARY PERIOD.—For purposes of  
10                      this subparagraph, the end of the initial  
11                      section temporary period shall be deter-  
12                      mined without regard to section  
13                      149(d)(3)(A)(iv).”.

14          (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to advance refunding bonds issued  
16 more than 30 days after the date of the enactment of this  
17 Act.

18 **SEC. 135103. PERMANENT MODIFICATION OF SMALL**  
19 **ISSUER EXCEPTION TO TAX-EXEMPT INTER-**  
20 **EST EXPENSE ALLOCATION RULES FOR FI-**  
21 **NANCIAL INSTITUTIONS.**

22          (a) PERMANENT INCREASE IN LIMITATION.—Sub-  
23 paragraphs (C)(i), (D)(i), and (D)(iii)(II) of section  
24 265(b)(3) are each amended by striking “\$10,000,000”  
25 and inserting “\$30,000,000”.

1 (b) PERMANENT MODIFICATION OF OTHER SPECIAL  
2 RULES.—Section 265(b)(3) is amended—

3 (1) by redesignating clauses (iv), (v), and (vi)  
4 of subparagraph (G) as clauses (ii), (iii), and (iv),  
5 respectively, and moving such clauses to the end of  
6 subparagraph (H) (as added by paragraph (2)), and

7 (2) by striking so much of subparagraph (G) as  
8 precedes such clauses and inserting the following:

9 “(G) QUALIFIED 501(c)(3) BONDS TREATED  
10 AS ISSUED BY EXEMPT ORGANIZATION.—In the  
11 case of a qualified 501(c)(3) bond (as defined  
12 in section 145), this paragraph shall be applied  
13 by treating the 501(c)(3) organization for  
14 whose benefit such bond was issued as the  
15 issuer.

16 “(H) SPECIAL RULE FOR QUALIFIED  
17 FINANCINGS.—

18 “(i) IN GENERAL.—In the case of a  
19 qualified financing issue—

20 “(I) subparagraph (F) shall not  
21 apply, and

22 “(II) any obligation issued as a  
23 part of such issue shall be treated as  
24 a qualified tax-exempt obligation if  
25 the requirements of this paragraph

1           are met with respect to each qualified  
2           portion of the issue (determined by  
3           treating each qualified portion as a  
4           separate issue which is issued by the  
5           qualified borrower with respect to  
6           which such portion relates).”.

7           (c) INFLATION ADJUSTMENT.—Section 265(b)(3), as  
8           amended by subsection (b), is amended by adding at the  
9           end the following new subparagraph:

10           “(I) INFLATION ADJUSTMENT.—In the  
11           case of any calendar year after 2021, the  
12           \$30,000,000 amounts contained in subpara-  
13           graphs (C)(i), (D)(i), and (D)(iii)(II) shall each  
14           be increased by an amount equal to—

15           “(i) such dollar amount, multiplied by  
16           “(ii) the cost-of-living adjustment de-  
17           termined under section 1(f)(3) for such  
18           calendar year, determined by substituting  
19           ‘calendar year 2020’ for ‘calendar year  
20           2016’ in subparagraph (A)(ii) thereof.

21           Any increase determined under the preceding  
22           sentence shall be rounded to the nearest mul-  
23           tiple of \$100,000.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to obligations issued after the date  
3 of the enactment of this Act.

4 **SEC. 135104. MODIFICATIONS TO QUALIFIED SMALL ISSUE**  
5 **BONDS.**

6 (a) MANUFACTURING FACILITIES TO INCLUDE PRO-  
7 Duction OF INTANGIBLE PROPERTY AND FUNCTIONALLY  
8 RELATED FACILITIES.—Subparagraph (C) of section  
9 144(a)(12) is amended to read as follows:

10 “(C) MANUFACTURING FACILITY.—For  
11 purposes of this paragraph—

12 “(i) IN GENERAL.—The term ‘manu-  
13 facturing facility’ means any facility  
14 which—

15 “(I) is used in the manufacturing  
16 or production of tangible personal  
17 property (including the processing re-  
18 sulting in a change in the condition of  
19 such property),

20 “(II) is used in the creation or  
21 production of intangible property  
22 which is described in section  
23 197(d)(1)(C)(iii), or

24 “(III) is functionally related and  
25 subordinate to a facility described in

1           subclause (I) or (II) if such facility is  
2           located on the same site as the facility  
3           described in subclause (I) or (II).

4           “(ii) CERTAIN FACILITIES IN-  
5           CLUDED.—The term ‘manufacturing facil-  
6           ity’ includes facilities that are directly re-  
7           lated and ancillary to a manufacturing fa-  
8           cility (determined without regard to this  
9           clause) if—

10                   “(I) those facilities are located on  
11                   the same site as the manufacturing  
12                   facility, and

13                   “(II) not more than 25 percent  
14                   of the net proceeds of the issue are  
15                   used to provide those facilities.

16           “(iii) LIMITATION ON OFFICE  
17           SPACE.—A rule similar to the rule of sec-  
18           tion 142(b)(2) shall apply for purposes of  
19           clause (i).

20           “(iv) LIMITATION ON REFUNDINGS  
21           FOR CERTAIN PROPERTY.—Subclauses (II)  
22           and (III) of clause (i) shall not apply to  
23           any bond issued on or before the date of  
24           the enactment of the Act to provide for  
25           reconciliation pursuant to title II of S.

1           Con. Res. 14, or to any bond issued to re-  
2           fund a bond issued on or before such date  
3           (other than a bond to which clause (iii) of  
4           this subparagraph (as in effect before the  
5           date of the enactment of such Act) ap-  
6           plies), either directly or in a series of  
7           refundings.”.

8           (b) INCREASE IN LIMITATIONS.—Section 144(a)(4) is  
9   amended—

10           (1) in subparagraph (A)(i), by striking  
11           “\$10,000,000” and inserting “\$30,000,000”, and

12           (2) in the heading, by striking “\$10,000,000” and  
13           inserting “\$30,000,000”.

14           (c) ADJUSTMENT FOR INFLATION.—Section  
15   144(a)(4) is amended by adding at the end the following  
16   new subparagraph:

17           “(H) ADJUSTMENT FOR INFLATION.—In  
18           the case of any calendar year after 2021, the  
19           \$30,000,000 amount in subparagraph (A) shall  
20           be increased by an amount equal to—

21                   “(i) such dollar amount, multiplied by

22                   “(ii) the cost-of-living adjustment de-  
23                   termined under section 1(f)(3) for the cal-  
24                   endar year, determined by substituting

1           ‘calendar year 2020’ for ‘calendar year  
2           2016’ in subparagraph (A)(ii) thereof.

3           If any amount as increased under the preceding  
4           sentence is not a multiple of \$100,000, such  
5           amount shall be rounded to the nearest multiple  
6           of \$100,000.”.

7           (d) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to obligations issued after the date  
9           of the enactment of this Act.

10 **SEC. 135105. EXPANSION OF CERTAIN EXCEPTIONS TO THE**  
11 **PRIVATE ACTIVITY BOND RULES FOR FIRST-**  
12 **TIME FARMERS.**

13           (a) INCREASE IN DOLLAR LIMITATION.—

14           (1) IN GENERAL.—Section 147(c)(2)(A) is  
15           amended by striking “\$450,000” and inserting  
16           “\$552,500”.

17           (2) REPEAL OF SEPARATE LOWER DOLLAR LIM-  
18           ITATION ON USED FARM EQUIPMENT.—Section  
19           147(c)(2) is amended by striking subparagraph (F)  
20           and by redesignating subparagraphs (G) and (H) as  
21           subparagraphs (F) and (G), respectively.

22           (3) QUALIFIED SMALL ISSUE BOND LIMITATION  
23           CONFORMED TO INCREASED DOLLAR LIMITATION.—  
24           Section 144(a)(11)(A) is amended by striking  
25           “\$250,000” and inserting “\$552,500”.

1 (4) INFLATION ADJUSTMENT.—

2 (A) IN GENERAL.—Section 147(c)(2)(G),  
3 as redesignated by paragraph (2), is amended—

4 (i) by striking “after 2008, the dollar  
5 amount in subparagraph (A) shall be in-  
6 creased” and inserting “after 2021, the  
7 dollar amounts in subparagraph (A) and  
8 section 144(a)(11)(A) shall each be in-  
9 creased”, and

10 (ii) in clause (ii), by striking “2007”  
11 and inserting “2020”.

12 (B) CROSS-REFERENCE.—Section  
13 144(a)(11) is amended by adding at the end the  
14 following new subparagraph:

15 “(D) INFLATION ADJUSTMENT.—For infla-  
16 tion adjustment of dollar amount contained in  
17 subparagraph (A), see section 147(c)(2)(G).”.

18 (b) SUBSTANTIAL FARMLAND DETERMINED ON  
19 BASIS OF AVERAGE RATHER THAN MEDIAN FARM  
20 SIZE.—Section 147(c)(2)(E) is amended by striking “me-  
21 dian” and inserting “average”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to bonds issued after the date of  
24 the enactment of this Act.

1 **SEC. 135106. CERTAIN WATER AND SEWAGE FACILITY**  
2 **BONDS EXEMPT FROM VOLUME CAP ON PRI-**  
3 **VATE ACTIVITY BONDS.**

4 (a) IN GENERAL.—Section 146(g) is amended by  
5 striking “and” at the end of paragraph (3), striking the  
6 period at the end of paragraph (4) and inserting “, and”,  
7 and inserting after paragraph (4) the following new para-  
8 graph:

9 “(5) any exempt facility bond issued as part of  
10 an issue described in paragraph (4) or (5) of section  
11 142(a) if 95 percent or more of the net proceeds of  
12 such issue are to be used to provide facilities  
13 which—

14 “(A) will be used—

15 “(i) by a person who was, as of July  
16 1, 2020, engaged in operation of a facility  
17 described in such paragraph, and

18 “(ii) to provide service within the area  
19 served by such person on such date (or  
20 within a county or city any portion of  
21 which is within such area), or

22 “(B) will be used by a successor in interest  
23 to such person for the same use and within the  
24 same service area as described in subparagraph  
25 (A).”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to bonds issued after the date of  
3 the enactment of this Act.

4 **SEC. 135107. EXEMPT FACILITY BONDS FOR ZERO-EMISSION**  
5 **VEHICLE INFRASTRUCTURE.**

6 (a) IN GENERAL.—Section 142 is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (14), by striking “or” at  
9 the end,

10 (B) in paragraph (15), by striking the pe-  
11 riod at the end and inserting “, or”, and

12 (C) by adding at the end the following new  
13 paragraph:

14 “(16) zero-emission vehicle infrastructure.”,

15 and

16 (2) by adding at the end the following new sub-  
17 section:

18 “(n) ZERO-EMISSION VEHICLE INFRASTRUCTURE.—

19 “(1) IN GENERAL.—For purposes of subsection  
20 (a)(16), the term ‘zero-emission vehicle infrastruc-  
21 ture’ means any property (not including a building  
22 and its structural components) if such property is  
23 part of a unit which—

24 “(A) is used to charge or fuel zero-emis-  
25 sions vehicles,

1           “(B) is located where the vehicles are  
2 charged or fueled,

3           “(C) is of a character subject to the allow-  
4 ance for depreciation (or amortization in lieu of  
5 depreciation),

6           “(D) is made available for use by members  
7 of the general public,

8           “(E) accepts payment via a credit card  
9 reader, including a credit card reader that uses  
10 contactless technology, and

11           “(F) is capable of charging or fueling vehi-  
12 cles produced by more than one manufacturer  
13 (within the meaning of section 30D(d)(3)).

14           “(2) INCLUSION OF UTILITY SERVICE CONNEC-  
15 TIONS, ETC.—The term ‘zero-emission vehicle infra-  
16 structure’ shall include any utility service connec-  
17 tions, utility panel upgrades, line extensions and  
18 conduit, transformer upgrades, or similar property,  
19 in connection with property meeting the require-  
20 ments of paragraph (1).

21           “(3) ZERO-EMISSIONS VEHICLE.—The term  
22 ‘zero-emissions vehicle’ means—

23           “(A) a zero-emission vehicle as defined in  
24 section 88.102–94 of title 40, Code of Federal  
25 Regulations, or

1           “(B) a vehicle that produces zero exhaust  
2           emissions of any criteria pollutant (or precursor  
3           pollutant) or greenhouse gas under any possible  
4           operational modes and conditions.

5           “(4) ZERO-EMISSIONS VEHICLE INFRASTRUC-  
6           TURE LOCATED WITHIN OTHER FACILITIES OR  
7           PROJECTS.—For purposes of subsection (a), any  
8           zero-emission vehicle infrastructure located within—

9           “(A) a facility or project described in sub-  
10          section (a), or

11          “(B) an area adjacent to a facility or  
12          project described in subsection (a) that pri-  
13          marily serves vehicles traveling to or from such  
14          facility or project,

15          shall be treated as described in the paragraph in  
16          which such facility or project is described.

17          “(5) EXCEPTION FOR REFUELING PROPERTY  
18          FOR FLEET VEHICLES.—Subparagraphs (D), (E),  
19          and (F) of paragraph (1) shall not apply to property  
20          which is part of a unit which is used exclusively by  
21          fleets of commercial or governmental vehicles.”.

22          (b) EFFECTIVE DATE.—The amendments made by  
23          this section shall apply to obligations issued after Decem-  
24          ber 31, 2021.

1 **SEC. 135108. APPLICATION OF DAVIS-BACON ACT REQUIRE-**  
2 **MENTS WITH RESPECT TO CERTAIN EXEMPT**  
3 **FACILITY BONDS.**

4 (a) **IN GENERAL.**—Section 142(b) is amended by  
5 adding at the end the following new paragraph:

6 “(3) **APPLICATION OF DAVIS-BACON ACT RE-**  
7 **QUIREMENTS WITH RESPECT TO CERTAIN EXEMPT**  
8 **FACILITY BONDS.**—If any proceeds of any issue are  
9 used for construction, alteration, or repair of any fa-  
10 cility otherwise described in paragraph (4), (5), (15),  
11 or (16) of subsection (a), such facility shall be treat-  
12 ed for purposes of subsection (a) as described in  
13 such paragraph only if each entity that receives such  
14 proceeds to conduct such construction, alteration, or  
15 repair agrees to comply with the provisions of sub-  
16 chapter IV of chapter 31 of title 40, United States  
17 Code with respect to such construction, alteration, or  
18 repair.”.

19 (b) **EFFECTIVE DATE.**—The amendment made by  
20 this section shall apply to bonds issued after the date of  
21 the enactment of this Act.

1                   **Subpart B—Other Provisions Related to**  
2                   **Infrastructure Financing**  
3 **SEC. 135111. CREDIT FOR OPERATIONS AND MAINTENANCE**  
4                   **COSTS           OF           GOVERNMENT-OWNED**  
5                   **BROADBAND.**

6           (a) IN GENERAL.—Subchapter B of chapter 65, as  
7 amended by the preceding provisions of this Act, is amend-  
8 ed by inserting before section 6432 the following new sec-  
9 tion:

10 **“SEC. 6431B. CREDIT FOR OPERATIONS AND MAINTENANCE**  
11                   **COSTS           OF           GOVERNMENT-OWNED**  
12                   **BROADBAND.**

13           “(a) IN GENERAL.—In the case of any eligible gov-  
14 ernmental entity, there shall be allowed a credit equal to  
15 the applicable percentage of the qualified broadband ex-  
16 penses paid or incurred by such entity during the taxable  
17 year which credit shall be payable by the Secretary as pro-  
18 vided in subsection (b).

19           “(b) PAYMENT OF CREDIT.—Upon receipt from an  
20 eligible governmental entity of such information as the  
21 Secretary may require for purposes of carrying out this  
22 section, the Secretary shall pay to such entity the amount  
23 of the credit determined under subsection (a) for the tax-  
24 able year.

25           “(c) LIMITATION.—The amount of qualified  
26 broadband expenses taken into account under this section

1 for any taxable year with respect to any qualified  
2 broadband network shall not exceed the product of \$400  
3 multiplied by the number of qualified households sub-  
4 scribed to the qualified broadband service provided by  
5 such network (determined as of any time during such tax-  
6 able year).

7 “(d) DEFINITIONS.—For purposes of this section—

8 “(1) APPLICABLE PERCENTAGE.—The term  
9 ‘applicable percentage’ means—

10 “(A) in the case of any taxable year begin-  
11 ning in 2021 through 2026, 30 percent,

12 “(B) in the case of any taxable year begin-  
13 ning in 2027, 26 percent, and

14 “(C) in the case of any taxable year begin-  
15 ning in 2028, 24 percent.

16 “(2) ELIGIBLE GOVERNMENTAL ENTITY.—The  
17 term ‘eligible governmental entity’ means—

18 “(A) any State, local, or Indian tribal gov-  
19 ernment,

20 “(B) any political subdivision or instru-  
21 mentality of any government described in sub-  
22 paragraph (A), and

23 “(C) any entity wholly owned by one or  
24 more entities described in subparagraph (A) or  
25 (B).

1 For purposes of this paragraph, the term ‘State’ in-  
2 cludes any possession of the United States.

3 “(3) QUALIFIED BROADBAND EXPENSES.—The  
4 term ‘qualified broadband expenses’ means so much  
5 of the amounts paid or incurred for the operation  
6 and maintenance of a qualified broadband network  
7 as are properly allocable to qualified households sub-  
8 scribed to the qualified broadband service provided  
9 by such network.

10 “(4) QUALIFIED HOUSEHOLD.—The term  
11 ‘qualified household’ means a personal residence  
12 which—

13 “(A) is located in a low-income community  
14 (as defined in section 45D(e)), and

15 “(B) did not have access to qualified  
16 broadband service from the eligible govern-  
17 mental entity (determined as of the beginning  
18 of the taxable year of such entity).

19 “(5) QUALIFIED BROADBAND NETWORK.—The  
20 term ‘qualified broadband network’ means property  
21 owned by an eligible governmental entity and used  
22 for the purpose of providing qualified broadband  
23 service.

24 “(6) QUALIFIED BROADBAND SERVICE.—The  
25 term ‘qualified broadband service’ means fixed, ter-

1       restrial broadband service providing downloads at a  
2       speed of at least 25 megabits per second and  
3       uploads at a speed of at least 3 megabits per second.

4           “(7) TAXABLE YEAR.—Except as otherwise pro-  
5       vided by the Secretary, the term ‘taxable year’  
6       means, with respect to any eligible governmental en-  
7       tity, the fiscal year of such entity.

8       “(e) SPECIAL RULES.—

9           “(1) ALLOCATIONS.—For purposes of sub-  
10       section (d)(3), amounts shall be treated as properly  
11       allocated if allocated ratably among the subscribers  
12       of the qualified broadband service.

13           “(2) DENIAL OF DOUBLE BENEFIT.—Qualified  
14       broadband expenses shall not include any amount  
15       which is paid or reimbursed (directly or indirectly)  
16       by any grant from the Federal Government.

17       “(f) REGULATIONS.—The Secretary may prescribe  
18       such regulations and other guidance as may be necessary  
19       or appropriate to carry out this section.

20       “(g) TERMINATION.—No credit shall be allowed  
21       under this section for any taxable year beginning after De-  
22       cember 31, 2028.”.

23       (b) PAYMENTS MADE UNDER SECTION 6431B(b) OF  
24       INTERNAL REVENUE CODE OF 1986.—Section 255(h) of  
25       the Balanced Budget and Emergency Deficit Control Act

1 of 1985 (2 U.S.C. 905(h)) is amended by inserting: “Pay-  
2 ments made under section 6431B(b) of the Internal Rev-  
3 enue Code of 1986” after the item related to Payments  
4 for Foster Care and Permanency.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 1324(b)(2) of title 31, United  
7 States Code, as amended by the preceding provisions  
8 of this Act, is amended by striking “or 6431A” and  
9 inserting “6431A, or 6431B”.

10 (2) The table of sections for subchapter B of  
11 chapter 65, as amended by the preceding provisions  
12 of this Act, is amended by inserting before the item  
13 relating to section 6432 the following new item:

“Sec. 6431B. Credit for operations and maintenance costs of government-  
owned broadband.”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2020.

17 **PART 2—NEW MARKETS TAX CREDIT**

18 **SEC. 135201. PERMANENT EXTENSION OF NEW MARKETS**  
19 **TAX CREDIT.**

20 (a) TEMPORARY LIMIT INCREASE AND PERMANENT  
21 EXTENSION.—Section 45D(f)(1) is amended by striking  
22 “and” at the end of subparagraph (G) and by striking  
23 subparagraph (H) and inserting the following new sub-  
24 paragraphs:

1           “(H) \$5,000,000,000 for each of calendar  
2           years 2020 and 2021,

3           “(I) \$7,000,000,000 for calendar year  
4           2022,

5           “(J) \$6,000,000,000 for calendar year  
6           2023, and

7           “(K) \$5,000,000,000 for calendar year  
8           2024 and each calendar year thereafter.”.

9           (b) ALTERNATIVE MINIMUM TAX RELIEF.—Section  
10          38(c)(4)(B) is amended—

11           (1) by redesignating clauses (v) through (xii) as  
12           clauses (vi) through (xiii), respectively, and

13           (2) by inserting after clause (iv) the following  
14           new clause:

15                   “(v) the credit determined under sec-  
16                   tion 45D, but only with respect to credits  
17                   determined with respect to qualified equity  
18                   investments (as defined in section 45D(b))  
19                   initially made after December 31, 2021.”.

20           (c) INFLATION ADJUSTMENT.—Section 45D(f) is  
21           amended by adding at the end the following new para-  
22           graph:

23                   “(4) INFLATION ADJUSTMENT.—

24                           “(A) IN GENERAL.—In the case of any cal-  
25                           endar year beginning after 2024, the dollar

1 amount paragraph (1)(H) shall be increased by  
2 an amount equal to—

3 “(i) such dollar amount, multiplied by

4 “(ii) the cost-of-living adjustment de-  
5 termined under section 1(f)(3) for the cal-  
6 endar year, determined by substituting  
7 ‘calendar year 2023’ for ‘calendar year  
8 2016’ in subparagraph (A)(ii) thereof.

9 “(B) ROUNDING RULE.—Any increase  
10 under subparagraph (A) which is not a multiple  
11 of \$1,000,000 shall be rounded to the nearest  
12 multiple of \$1,000,000.”.

13 (d) CONFORMING AMENDMENT.—Section 45D(f)(3)  
14 is amended by striking the last sentence.

15 (e) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as otherwise pro-  
17 vided in this subsection, the amendments made by  
18 this section shall apply to new markets tax credit  
19 limitation determined for calendar years after 2021.

20 (2) ALTERNATIVE MINIMUM TAX RELIEF.—The  
21 amendments made by subsection (b) shall apply to  
22 credits determined with respect to qualified equity  
23 investments (as defined in section 45D(b) of the In-  
24 ternal Revenue Code of 1986) initially made after  
25 December 31, 2021.

1           **PART 3—REHABILITATION TAX CREDIT**

2   **SEC. 135301. DETERMINATION OF CREDIT PERCENTAGE.**

3           (a) **IN GENERAL.**—Section 47(a)(2) is amended by  
4 striking “20 percent” and inserting “the applicable per-  
5 centage”.

6           (b) **APPLICABLE PERCENTAGE.**—Section 47(a) is  
7 amended by adding at the end the following new para-  
8 graph:

9                   “(3) **APPLICABLE PERCENTAGE.**—For purposes  
10 of this subsection, the term ‘applicable percentage’  
11 means the percentage determined in accordance with  
12 the following table:

“In the case of taxable years begin- ning:	The applicable percentage is:
Before 2020 .....	20 percent
In 2020 through 2025 .....	30 percent
In 2026 .....	26 percent
In 2027 .....	23 percent
After 2027 .....	20 percent

13                   “(4) **APPLICATION OF PERCENTAGES TO YEAR**  
14 **OF EXPENDITURE.**—In the case of qualified rehabili-  
15 tation expenditures with respect to the qualified re-  
16 habilitated building that are paid or incurred in 2 or  
17 more taxable years for which there is a different ap-  
18 plicable percentage under paragraph (3), the ratable  
19 share shall be determined by applying to such ex-  
20 penditures the applicable percentage corresponding

1 to the taxable year in which such expenditures were  
2 paid or incurred.”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property placed in service after  
5 March 31, 2021.

6 **SEC. 135302. INCREASE IN THE REHABILITATION CREDIT**  
7 **FOR CERTAIN SMALL PROJECTS.**

8 (a) IN GENERAL.—Section 47 is amended by adding  
9 at the end the following new subsection:

10 “(e) SPECIAL RULE REGARDING CERTAIN SMALLER  
11 PROJECTS.—

12 “(1) IN GENERAL.—In the case of any smaller  
13 project—

14 “(A) the applicable percentage determined  
15 under subsection (a)(3) shall be 30 percent, and

16 “(B) the qualified rehabilitation expendi-  
17 tures taken into account under this section with  
18 respect to such project shall not exceed  
19 \$2,500,000.

20 “(2) SMALLER PROJECT.—For purposes of this  
21 subsection, the term ‘smaller project’ means the re-  
22 habilitation of any qualified rehabilitated building  
23 if—

24 “(A) the qualified rehabilitation expendi-  
25 tures taken into account under this section (or

1           which would be so taken into account but for  
2           paragraph (1)(B)) with respect to such rehabili-  
3           tation do not exceed \$3,750,000,

4           “(B) no credit was allowed under this sec-  
5           tion with respect to such building to any tax-  
6           payer for either of the 2 taxable years imme-  
7           diately preceding the first taxable year in which  
8           expenditures described in subparagraph (A)  
9           were paid or incurred, and

10           “(C) the taxpayer elects (at such time and  
11           manner as the Secretary may provide) to have  
12           this subsection apply with respect to such reha-  
13           bilitation.”.

14           (b) **EFFECTIVE DATE.**—The amendment made by  
15           this section shall apply to taxable years beginning after  
16           December 31, 2021.

17           **SEC. 135303. MODIFICATION OF DEFINITION OF SUBSTAN-**  
18           **TIALLY REHABILITATED.**

19           (a) **IN GENERAL.**—Section 47(c)(1)(B)(i)(I) is  
20           amended by inserting “50 percent of” before “the ad-  
21           justed basis”.

22           (b) **EFFECTIVE DATE.**—The amendment made by  
23           subsection (a) shall apply to determinations with respect  
24           to 24-month periods (referred to in clause (i) of section  
25           47(c)(1)(B) of the Internal Revenue Code of 1986) and

1 60-month periods (referred to in clause (ii) of such sec-  
2 tion) which end after December 31, 2021.

3 **SEC. 135304. ELIMINATION OF REHABILITATION CREDIT**  
4 **BASIS ADJUSTMENT.**

5 (a) IN GENERAL.—Section 50(c) is amended by add-  
6 ing at the end the following new paragraph:

7 “(6) EXCEPTION FOR REHABILITATION CRED-  
8 IT.—In the case of the rehabilitation credit, para-  
9 graph (1) shall not apply.”

10 (b) TREATMENT IN CASE OF CREDIT ALLOWED TO  
11 LESSEE.—Section 50(d) is amended by adding at the end  
12 the following: “In the case of the rehabilitation credit,  
13 paragraph (5)(B) of the section 48(d) referred to in para-  
14 graph (5) of this subsection shall not apply.”

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to property placed in service after  
17 December 31, 2022.

18 **SEC. 135305. MODIFICATIONS REGARDING CERTAIN TAX-EX-**  
19 **EMPT USE PROPERTY.**

20 (a) IN GENERAL.—Section 47(c)(2)(B)(v) is amend-  
21 ed by adding at the end the following new subclause:

22 “(III) DISQUALIFIED LEASE  
23 RULES TO APPLY ONLY IN CASE OF  
24 GOVERNMENT ENTITY.—For purposes  
25 of subclause (I), except in the case of

1 a tax-exempt entity described in sec-  
2 tion 168(h)(2)(A)(i) (determined with-  
3 out regard to the last sentence of sec-  
4 tion 168(h)(2)(A)), the determination  
5 of whether property is tax-exempt use  
6 property shall be made under section  
7 168(h) without regard to whether the  
8 property is leased in a disqualified  
9 lease (as defined in section  
10 168(h)(1)(B)(ii)).”.

11 (b) **EFFECTIVE DATE.**—The amendments made by  
12 this section shall apply to leases entered into after Decem-  
13 ber 31, 2021.

14 **SEC. 135306. QUALIFICATION OF REHABILITATION EXPEND-**  
15 **ITURES FOR PUBLIC SCHOOL BUILDINGS**  
16 **FOR REHABILITATION CREDIT.**

17 (a) **IN GENERAL.**—Section 47(c)(2)(B)(v), as amend-  
18 ed by the preceding provisions of this Act, is amended by  
19 adding at the end the following new subclause:

20 “(IV) **CLAUSE NOT TO APPLY TO**  
21 **PUBLIC SCHOOLS.**—This clause shall  
22 not apply in the case of the rehabilita-  
23 tion of any building which was used  
24 as a qualified public educational facil-  
25 ity (as defined in section 142(k)(1),

1                   determined without regard to sub-  
2                   paragraph (B) thereof) at any time  
3                   during the 5-year period ending on  
4                   the date that such rehabilitation be-  
5                   gins and which is used as such a facil-  
6                   ity immediately after such rehabilita-  
7                   tion.”.

8           (b) REPORT.—Not later than the date which is 5  
9 years after the date of the enactment of this Act, the Sec-  
10 retary of the Treasury, after consultation with the heads  
11 of appropriate Federal agencies, shall report to Congress  
12 on the effects resulting from the amendment made by sub-  
13 section (a), including—

14                   (1) the number of qualified public education fa-  
15                   cilities rehabilitated (stated separately with respect  
16                   to each State) and the number of students using  
17                   such facilities (stated separately with respect to each  
18                   such State),

19                   (2) the number of qualified public education fa-  
20                   cilities rehabilitated in low income communities (as  
21                   section 45D(e)(1) of the Internal Revenue Code of  
22                   1986) and the number of students using such facili-  
23                   ties,

1           (3) the amount of qualified rehabilitation ex-  
2           penditures for each qualified public education facility  
3           rehabilitated, and

4           (4) and any other data determined by the Sec-  
5           retary to be useful in evaluating the impact of such  
6           amendment.

7           (c) EFFECTIVE DATE.—The amendment made by  
8           this section shall apply to property placed in service after  
9           December 31, 2021.

10                   **PART 4—DISASTER AND RESILIENCY**

11           **SEC. 135401. EXCLUSION OF AMOUNTS RECEIVED FROM**  
12                   **STATE-BASED CATASTROPHE LOSS MITIGA-**  
13                   **TION PROGRAMS.**

14           (a) IN GENERAL.—Section 139 is amended by redess-  
15           ignating subsection (h) as subsection (i) and by inserting  
16           after subsection (g) the following new subsection:

17           “(h) STATE-BASED CATASTROPHE LOSS MITIGATION  
18           PROGRAMS.—

19                   “(1) IN GENERAL.—Gross income shall not in-  
20           clude any amount received by an individual as a  
21           qualified catastrophe mitigation payment under a  
22           program established by a State, or a political sub-  
23           division or instrumentality thereof, for the purpose  
24           of making such payments.

1           “(2) QUALIFIED CATASTROPHE MITIGATION  
2 PAYMENT.—For purposes of this section, the term  
3 ‘qualified catastrophe mitigation payment’ means  
4 any amount which is received by an individual to  
5 make improvements to such individual’s residence  
6 for the sole purpose of reducing the damage that  
7 would be done to such residence by a windstorm,  
8 earthquake, or wildfire.

9           “(3) NO INCREASE IN BASIS.—Rules similar to  
10 the rules of subsection (g)(3) shall apply in the case  
11 of this subsection.”.

12 (b) CONFORMING AMENDMENTS.—

13           (1) Section 139(d) is amended by striking “and  
14 qualified” and inserting “, qualified catastrophe  
15 mitigation payments, and qualified”.

16           (2) Section 139(i) (as redesignated by sub-  
17 section (a)) is amended by striking “or qualified”  
18 and inserting “, qualified catastrophe mitigation  
19 payment, or qualified”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2020.

1 **SEC. 135402. REPEAL OF TEMPORARY LIMITATION ON PER-**  
2 **SONAL CASUALTY LOSSES.**

3 (a) **IN GENERAL.**—Section 165(h) is amended by  
4 striking paragraph (5).

5 (b) **EXTENSION OF PERIOD OF LIMITATION ON FILING CLAIM IN CERTAIN CIRCUMSTANCES.**—In the case of  
6 a claim for credit or refund which is properly allocable  
7 to a loss which is—

9 (1) deductible under section 165(a) of the In-  
10 ternal Revenue Code of 1986,

11 (2) described in Revenue Procedure 2017-60  
12 (as modified by Revenue Procedure 2018-14), and

13 (3) claimed for a taxable year beginning after  
14 December 31, 2016,

15 the period of limitation prescribed in section 6511 of the  
16 Internal Revenue Code of 1986 for the filing of such claim  
17 shall be treated as not expiring earlier than the date that  
18 is 1 year after the date of the enactment of this Act.

19 (c) **EFFECTIVE DATE.**—The amendment made by  
20 subsection (a) shall apply to losses incurred in taxable  
21 years beginning after December 31, 2017.

22 (d) **REGULATIONS.**—The Secretary of the Treasury  
23 (or the Secretary's delegate) shall issue such regulations  
24 or other guidance as are necessary to implement the  
25 amendment made by this section, including regulations or

1 guidance consistent with Revenue Procedure 2017–60 (as  
2 so modified).

3 **SEC. 135403. CREDIT FOR QUALIFIED WILDFIRE MITIGA-**  
4 **TION EXPENDITURES.**

5 (a) IN GENERAL.—Subpart B of part IV of sub-  
6 chapter A of chapter 1 is amended by inserting after sec-  
7 tion 27 the following new section:

8 **“SEC. 28. QUALIFIED WILDFIRE MITIGATION EXPENDI-**  
9 **TURES.**

10 “(a) IN GENERAL.—There shall be allowed as a cred-  
11 it against the tax imposed by this chapter for the taxable  
12 year an amount equal to 30 percent of the qualified wild-  
13 fire mitigation expenditures paid or incurred by the tax-  
14 payer during such taxable year with respect to real prop-  
15 erty owned or leased by the taxpayer.

16 “(b) QUALIFIED WILDFIRE MITIGATION EXPENDI-  
17 TURES.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified wildfire  
19 mitigation expenditures’ means any specified wildfire  
20 mitigation expenditure made pursuant to a qualified  
21 State wildfire mitigation program of a State which  
22 requires expenditures for wildfire mitigation to be  
23 paid both by the taxpayer and such State. Such  
24 term shall not include any item of expenditure un-  
25 less the ratio of the State’s expenditure for such

1 item to the sum of the State's and taxpayer's ex-  
2 penditures for such item is not less than 25 percent.

3 “(2) SPECIFIED WILDFIRE MITIGATION EX-  
4 PENDITURE.—The term ‘specified wildfire mitigation  
5 expenditure’ means, with respect to any real prop-  
6 erty owned or leased by the taxpayer, any amount  
7 paid or incurred to reduce the risk of wildfire by re-  
8 moving accumulations of vegetation (including estab-  
9 lishing, expanding, or maintaining fuel breaks to  
10 serve as fire breaks) on such real property.

11 “(3) QUALIFIED STATE WILDFIRE MITIGATION  
12 PROGRAM.—The term ‘qualified State wildfire miti-  
13 gation program’ means any program of a State the  
14 primary purpose of which is to mitigate the risk of  
15 wildfires in such State.

16 “(4) TREATMENT OF REIMBURSEMENTS.—Any  
17 amount originally paid or incurred by the taxpayer  
18 which is reimbursed by a State under a qualified  
19 wildfire mitigation program of such State shall be  
20 treated as paid by such State (and not by such tax-  
21 payer).

22 “(c) APPLICATION WITH OTHER CREDITS.—

23 “(1) BUSINESS CREDIT TREATED AS PART OF  
24 GENERAL BUSINESS CREDIT.—So much of the credit  
25 which would be allowed under subsection (a) for any

1 taxable year (determined without regard to this sub-  
2 section) that is attributable to expenditures made in  
3 the ordinary course of the taxpayer's trade or busi-  
4 ness (or, in the case of expenditures made by a  
5 State, would have been expenditures made in the or-  
6 dinary course of the taxpayer's trade or business if  
7 made by the taxpayer) shall be treated as a credit  
8 listed in section 38(b) for taxable year (and not al-  
9 lowed under subsection (a)).

10 “(2) PERSONAL CREDIT.—For purposes of this  
11 title, the credit allowed under subsection (a) for any  
12 taxable year (determined after application of para-  
13 graph (1)) shall be treated as a credit allowable  
14 under subpart A for such taxable year.

15 “(d) REDUCTION OF CREDIT PERCENTAGE WHERE  
16 TAXPAYER EXPENDITURES LESS THAN 30 PERCENT.—

17 “(1) IN GENERAL.—If the expenditure percent-  
18 age with respect to any item of qualified wildfire  
19 mitigation expenditure is less than 30 percent, sub-  
20 section (a) shall be applied by substituting ‘the ex-  
21 penditure percentage’ for ‘30 percent’ with respect  
22 to such item of expenditure.

23 “(2) EXPENDITURE PERCENTAGE.—For pur-  
24 poses of this section, the term ‘expenditure percent-  
25 age’ means, with respect to any item of qualified

1 wildfire mitigation expenditure any portion of which  
2 is paid or incurred by a State, the ratio (expressed  
3 as a percentage) of—

4 “(A) the taxpayer’s expenditure for such  
5 item, divided by

6 “(B) the sum of the taxpayer’s and such  
7 State’s expenditures for such item.

8 “(e) SPECIAL RULES.—

9 “(1) TREATMENT OF EXPENDITURES RELATED  
10 TO MARKETABLE TIMBER.—An expenditure shall not  
11 be taken into account for purposes of this section  
12 (whether made by the taxpayer or a State pursuant  
13 to a qualified State wildfire mitigation program of  
14 such State) if such expenditure is properly allocable  
15 to timber which is sold or exchanged by the tax-  
16 payer. The preceding sentence shall not apply to the  
17 extent that such amount exceeds the gain on such  
18 sale or exchange.

19 “(2) BASIS REDUCTION.—For purposes of this  
20 subtitle, if the basis of any property would (but for  
21 this paragraph) be determined by taking into ac-  
22 count any qualified wildfire mitigation expenditure,  
23 the basis of such property shall be reduced by the  
24 amount of the credit allowed under subsection (a)

1 with respect to such expenditure (determined with-  
2 out regard to subsection (c)).

3 “(3) DENIAL OF DOUBLE BENEFIT.—The  
4 amount of any deduction or other credit allowable  
5 under this chapter for any expenditure for which a  
6 credit is allowable under subsection (a) shall be re-  
7 duced by the amount of credit allowed under such  
8 subsection for such expenditure (determined without  
9 regard to subsection (c)).”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 38(b), as amended by the preceding  
12 provisions of this Act, is amended by striking “plus”  
13 at the end of paragraph (33), by striking the period  
14 at the end of paragraph (34) and inserting “, plus”,  
15 and by adding at the end the following new para-  
16 graph:

17 “(35) the portion of the qualified wildfire miti-  
18 gation expenditures credit to which section 28(c)(1)  
19 applies.”.

20 (2) Section 1016(a) is amended by redesign-  
21 ating paragraphs (35) through (38) as paragraphs  
22 (36) through (39), respectively, and by inserting  
23 after paragraph (34) the following new paragraph:

24 “(35) to the extent provided in section  
25 28(e)(2),”.

1 (3) The table of sections for subpart B of part  
 2 IV of subchapter A of chapter 1 is amended by in-  
 3 serting after the item relating to section 27 the fol-  
 4 lowing new item:

“Sec. 28. Qualified wildfire mitigation expenditures.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to expenditures paid or incurred  
 7 after the date of the enactment of this Act, in taxable  
 8 years ending after such date.

**PART 5—HOUSING**

**Subpart A—Low Income Housing Tax Credit**

**SEC. 135501. INCREASES IN STATE ALLOCATIONS.**

12 (a) IN GENERAL.—Section 42(h)(3)(I) is amended to  
 13 read as follows:

14 “(I) INCREASE IN STATE HOUSING CREDIT  
 15 CEILING FOR 2022 THROUGH 2028.—

16 “(i) IN GENERAL.—In the case of cal-  
 17 endar years 2022 through 2028, the dollar  
 18 amounts under subclauses (I) and (II) of  
 19 subparagraph (C)(ii) for any such calendar  
 20 shall be determined under clause (ii) and  
 21 in accordance with the following table:

“In the case of calendar year:	The sub- clause (I) amount shall be:	The sub- clause (II) amount shall be:
2022 .....	\$3.22	\$3,711,575
2023 .....	\$3.70	\$4,269,471

“In the case of calendar year:	The sub- clause (I) amount shall be:	The sub- clause (II) amount shall be:
2024 .....	\$4.25	\$4,901,620
2025 .....	\$4.88	\$5,632,880

1                                   “(ii) INFLATION ADJUSTMENT FOR  
2                                   2026, 2027, AND 2028.—In the case of  
3                                   calendar years 2026, 2027, and 2028, the  
4                                   subclause (I) and (II) dollar amounts shall  
5                                   be the respective dollar amounts cor-  
6                                   responding to calendar year 2025 in the  
7                                   table under clause (i) each increased by an  
8                                   amount equal to—  
9   “(I) such dollar amount, multi-  
10    plied by  
11    “(II) the cost-of-living adjust-  
12    ment determined under section 1(f)(3)  
13    for such calendar year by substituting  
14    ‘calendar year 2025’ for ‘calendar  
15    year 2016’ in paragraph (A)(ii) there-  
16    of.  
17                                   Any increase under this clause shall be  
18                                   rounded to the nearest cent in the case of  
19                                   the subclause (I) amount and the nearest  
20                                   dollar in the case of the subclause (II)  
21                                   amount.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to calendar years beginning after  
3 December 31, 2021.

4 **SEC. 135502. TAX-EXEMPT BOND FINANCING REQUIRE-**  
5 **MENT.**

6 (a) IN GENERAL.—Section 42(h)(4)(B) is amended  
7 by adding at the end the following: “The preceding sen-  
8 tence shall be applied by substituting ‘25 percent’ for ‘50  
9 percent’ in the case of any building which is financed by  
10 any obligation issued in calendar year 2022, 2023, 2024,  
11 2025, 2026, 2027, or 2028 (and not by any obligation on  
12 which the application of this subparagraph is based during  
13 any taxable year beginning during calendar year 2019,  
14 2020, or 2021).”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to buildings placed in service in  
17 taxable years beginning after December 31, 2021.

18 **SEC. 135503. BUILDINGS DESIGNATED TO SERVE EX-**  
19 **TREMELY LOW-INCOME HOUSEHOLDS.**

20 (a) RESERVED STATE ALLOCATION.—

21 (1) IN GENERAL.—Section 42(h) is amended—  
22 (A) by redesignating paragraphs (6), (7),  
23 and (8) as paragraphs (7), (8), and (9), respec-  
24 tively, and

1 (B) by inserting after paragraph (5) the  
2 following new paragraph:

3 “(6) PORTION OF STATE CEILING SET-ASIDE  
4 FOR PROJECTS DESIGNATED TO SERVE EXTREMELY  
5 LOW-INCOME HOUSEHOLDS.—

6 “(A) IN GENERAL.—Not more than 90  
7 percent of the portion of the State housing  
8 credit ceiling amount described in paragraph  
9 (3)(C)(ii) for any State for any calendar year  
10 shall be allocated to buildings other than build-  
11 ings described in subparagraph (B).

12 “(B) BUILDINGS DESCRIBED.—A building  
13 is described in this subparagraph if 20 percent  
14 or more of the residential units in such building  
15 are rent-restricted (determined as if the im-  
16 puted income limitation applicable to such units  
17 were 30 percent of area median gross income)  
18 and are designated by the taxpayer for occu-  
19 pancy by households the aggregate household  
20 income of which does not exceed the greater  
21 of—

22 “(i) 30 percent of area median gross  
23 income, or

1                   “(ii) 100 percent of an amount equal  
2                   to the Federal poverty line (within the  
3                   meaning of section 36B(d)(3)).

4                   “(C) STATE MAY NOT OVERRIDE SET-  
5                   ASIDE.—Nothing in subparagraph (F) of para-  
6                   graph (3) shall be construed to permit a State  
7                   not to comply with subparagraph (A) of this  
8                   paragraph.

9                   “(D) TERMINATION.—This paragraph  
10                  shall not apply to allocations after December  
11                  31, 2031.”.

12                  (2) CONFORMING AMENDMENT.—Section  
13                  42(b)(4)(C) is amended by striking “(h)(7)” and in-  
14                  serting “(h)(8)”.

15                  (b) INCREASE IN CREDIT.—Paragraph (5) of section  
16                  42(d) is amended by adding at the end the following new  
17                  subparagraph:

18                                 “(C) INCREASE IN CREDIT FOR PROJECTS  
19                                 DESIGNATED TO SERVE EXTREMELY LOW-IN-  
20                                 COME HOUSEHOLDS.—

21   “(i) IN GENERAL.—In the case of any  
22   building—

23   “(I) which is described in sub-  
24   section (h)(6)(B), and

1                   “(II) which is designated by the  
2                   housing credit agency as requiring the  
3                   increase in credit under this subpara-  
4                   graph in order for such building to be  
5                   financially feasible as part of a quali-  
6                   fied low-income housing project,  
7                   subparagraph (B) shall not apply to the  
8                   portion of such building which is comprised  
9                   of such units, and the eligible basis of such  
10                  portion of the building shall be 150 per-  
11                  cent of such basis determined without re-  
12                  gard to this subparagraph.

13                  “(ii) ALLOCATION RULES APPLICABLE  
14                  TO PROJECTS TO WHICH CLAUSE (i) AP-  
15                  PLIES.—

16                  “(I) STATE HOUSING CREDIT  
17                  CEILING.—For any calendar year, the  
18                  housing credit agency shall not allo-  
19                  cate more than 15 percent of the por-  
20                  tion of the State housing credit ceiling  
21                  amount described in subsection  
22                  (h)(3)(C)(ii) to buildings to which  
23                  clause (i) applies, and

24                  “(II) PRIVATE ACTIVITY BOND  
25                  VOLUME CAP.—In the case of projects

1 financed by tax-exempt bonds as de-  
2 scribed in subsection (h)(4), for any  
3 calendar year, the State shall not  
4 issue more than 10 percent of the pri-  
5 vate activity bond volume cap as de-  
6 scribed in section 146(d)(1) to build-  
7 ings to which clause (i) applies.

8 “(iii) TERMINATION.—This subpara-  
9 graph shall not apply to allocations after  
10 December 31, 2031.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to allocations, and determinations,  
13 of housing credit dollar amount after December 31, 2021.

14 **SEC. 135504. INCLUSION OF RURAL AREAS AS DIFFICULT**  
15 **DEVELOPMENT AREAS.**

16 (a) IN GENERAL.—Subclause (I) of section  
17 42(d)(5)(B)(iii) is amended by inserting before the period  
18 the following: “, and any rural area”.

19 (b) RURAL AREA.—Clause (iii) of section  
20 42(d)(5)(B) is amended by redesignating subclause (II)  
21 as subclause (III) and by inserting after subclause (I) the  
22 following new subclause:

23 “(II) RURAL AREA.—For pur-  
24 poses of subclause (I), the term ‘rural  
25 area’ means any non-metropolitan

1 area, or any rural area as defined by  
2 section 520 of the Housing Act of  
3 1949, which is identified by the quali-  
4 fied allocation plan under subsection  
5 (m)(1)(B).”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to buildings placed in service after  
8 December 31, 2021.

9 **SEC. 135505. REPEAL OF QUALIFIED CONTRACT OPTION.**

10 (a) TERMINATION OF OPTION FOR CERTAIN BUILD-  
11 INGS.—

12 (1) IN GENERAL.—Subclause (II) of section  
13 42(h)(7)(E)(i), as redesignated by section 135503, is  
14 amended by inserting “in the case of a building de-  
15 scribed in clause (iii),” before “on the last day”.

16 (2) BUILDINGS DESCRIBED.—Subparagraph  
17 (E) of section 42(h)(7), as so redesignated, is  
18 amended by adding at the end the following new  
19 clause:

20 “(iii) BUILDINGS DESCRIBED.—A  
21 building described in this clause is a build-  
22 ing—

23 “(I) which received its allocation  
24 of housing credit dollar amount before  
25 January 1, 2022, or

1                   “(II) in the case of a building  
2                   any portion of which is financed as  
3                   described in paragraph (4), which re-  
4                   ceived before January 1, 2022, a de-  
5                   termination from the issuer of the  
6                   tax-exempt bonds or the housing cred-  
7                   it agency that the building is eligible  
8                   to receive an allocation of housing  
9                   credit dollar amount under the rules  
10                  of paragraphs (1) and (2) of sub-  
11                  section (m).”.

12           (b) RULES RELATING TO EXISTING PROJECTS.—  
13   Subparagraph (F) of section 42(h)(7), as redesignated by  
14   section 135503, is amended by striking “the nonlow-in-  
15   come portion” and all that follows and inserting “the  
16   nonlow-income portion and the low-income portion of the  
17   building for fair market value (determined by the housing  
18   credit agency by taking into account the rent restrictions  
19   required for the low-income portion of the building to con-  
20   tinue to meet the standards of paragraphs (1) and (2) of  
21   subsection (g)). The Secretary shall prescribe such regula-  
22   tions as may be necessary or appropriate to carry out this  
23   paragraph.”.

24           (c) CONFORMING AMENDMENTS.—



1           (1) IN GENERAL.—Subparagraph (A) of section  
2           42(i)(7) is amended by striking “a right of 1st re-  
3           fusal” and inserting “an option”.

4           (2) CONFORMING AMENDMENT.—The heading  
5           of paragraph (7) of section 42(i) is amended by  
6           striking “RIGHT OF 1ST REFUSAL” and inserting  
7           “OPTION”.

8           (b) CLARIFICATION WITH RESPECT TO RIGHT OF  
9           FIRST REFUSAL AND PURCHASE OPTIONS.—

10           (1) PURCHASE OF PARTNERSHIP INTEREST.—  
11           Subparagraph (A) of section 42(i)(7), as amended  
12           by subsection (a), is amended by striking “the prop-  
13           erty” and inserting “the property or all of the part-  
14           nership interests (other than interests of the person  
15           exercising such option or a related party thereto  
16           (within the meaning of section 267(b) or 707(b)(1)))  
17           relating to the property”.

18           (2) PROPERTY INCLUDES ASSETS RELATING TO  
19           THE BUILDING.—Paragraph (7) of section 42(i) is  
20           amended by adding at the end the following new  
21           subparagraph:

22                   “(C) PROPERTY.—For purposes of sub-  
23                   paragraph (A), the term ‘property’ may include  
24                   all or any of the assets held for the develop-

1           ment, operation, or maintenance of a build-  
2           ing.”.

3           (3) EXERCISE OF RIGHT OF FIRST REFUSAL  
4           AND PURCHASE OPTIONS.—Subparagraph (A) of  
5           section 42(i)(7), as amended by subsection (a) and  
6           paragraph (1)(A), is amended by adding at the end  
7           the following: “For purposes of determining whether  
8           an option, including a right of first refusal, to pur-  
9           chase property or partnership interests holding (di-  
10          rectly or indirectly) such property is described in the  
11          preceding sentence—

12                   “(i) such option or right of first re-  
13                   fusal shall be exercisable with or without  
14                   the approval of any owner of the project  
15                   (including any partner, member, or affili-  
16                   ated organization of such an owner), and

17                   “(ii) a right of first refusal shall be  
18                   exercisable in response to any offer to pur-  
19                   chase the property or partnership interests,  
20                   including an offer by a related party.”.

21          (c) CONFORMING AMENDMENTS.—Subparagraph (B)  
22          of section 42(i)(7) is amended by striking “the sum of”  
23          and all that follows and inserting “the principal amount  
24          of outstanding indebtedness secured by the building (other  
25          than indebtedness incurred within the 5-year period end-

1 ing on the date of the sale to the tenants). In the case  
2 of a purchase of a partnership interest, the minimum pur-  
3 chase price is an amount not less than such interest's rat-  
4 able share of the amount determined under the first sen-  
5 tence of this subparagraph.”.

6 (d) EFFECTIVE DATES.—

7 (1) MODIFICATION OF RIGHT OF FIRST RE-  
8 FUSAL.—The amendments made by subsections (a)  
9 and (c) shall apply to agreements entered into or  
10 amended after the date of the enactment of this Act.

11 (2) CLARIFICATION.—The amendments made  
12 by subsection (b) shall apply to agreements among  
13 the owners of the project (including partners, mem-  
14 bers, and their affiliated organizations) and persons  
15 described in section 42(i)(7)(A) of the Internal Rev-  
16 enue Code of 1986 entered into before, on, or after  
17 the date of the enactment of this Act.

18 (3) NO EFFECT ON AGREEMENTS.—None of the  
19 amendments made by this section is intended to su-  
20 persede express language in any agreement with re-  
21 spect to the terms of a right of first refusal or op-  
22 tion permitted by section 42(i)(7) of the Internal  
23 Revenue Code of 1986 in effect on the date of the  
24 enactment of this Act.

1 **SEC. 135507. INCREASE IN CREDIT FOR BOND-FINANCED**  
2 **PROJECTS DESIGNATED BY HOUSING CREDIT**  
3 **AGENCY.**

4 (a) **IN GENERAL.**—Section 42(d)(5)(B)(v) is amend-  
5 ed by striking “The preceding sentence” and inserting “In  
6 the case of determinations of housing credit dollar amount  
7 after December 31, 2028, the preceding sentence”.

8 (b) **EFFECTIVE DATE.**—The amendments made by  
9 this section shall apply to buildings which receive a deter-  
10 mination of housing credit dollar amount pursuant to sec-  
11 tion 42(m)(2)(D) of the Internal Revenue Code of 1986  
12 after the date of the enactment of this Act.

13 **Subpart B—Neighborhood Homes Investment Act**

14 **SEC. 135511. NEIGHBORHOOD HOMES CREDIT.**

15 (a) **IN GENERAL.**—Subpart D of part IV of sub-  
16 chapter A of chapter 1 is amended by inserting after sec-  
17 tion 42 the following new section:

18 **“SEC. 42A. NEIGHBORHOOD HOMES CREDIT.**

19 “(a) **ALLOWANCE OF CREDIT.**—For purposes of sec-  
20 tion 38, the neighborhood homes credit determined under  
21 this section for the taxable year is, with respect to each  
22 qualified residence sold by the taxpayer during such tax-  
23 able year in an affordable sale, the lesser of—

24 “(1) the excess (if any) of—

1           “(A) the reasonable development costs paid  
2 or incurred by the taxpayer with respect to such  
3 qualified residence, over

4           “(B) the sale price of such qualified resi-  
5 dence (reduced by any reasonable expenses paid  
6 or incurred by the taxpayer in connection with  
7 such sale), or

8           “(2) 35 percent of the lesser of—

9           “(A) the eligible development costs paid or  
10 incurred by the taxpayer with respect to such  
11 qualified residence, or

12           “(B) 80 percent of the national median  
13 sale price for new homes (as determined pursu-  
14 ant to the most recent census data available as  
15 of the date on which the neighborhood homes  
16 credit agency makes an allocation for the quali-  
17 fied project).

18           “(b) DEVELOPMENT COSTS.—For purposes of this  
19 section—

20           “(1) REASONABLE DEVELOPMENT COSTS.—

21           “(A) IN GENERAL.—The term ‘reasonable  
22 development costs’ means amounts paid or in-  
23 curred for the acquisition of buildings and land,  
24 construction, substantial rehabilitation, demoli-  
25 tion of structures, or environmental remedi-

1           ation, to the extent that the neighborhood  
2           homes credit agency determines that such  
3           amounts meet the standards specified pursuant  
4           to subsection (f)(1)(C) (as of the date on which  
5           construction or substantial rehabilitation is sub-  
6           stantially complete, as determined by such  
7           agency) and are necessary to ensure the finan-  
8           cial feasibility of such qualified residence.

9           “(B) CONSIDERATIONS IN MAKING DETER-  
10          MINATION.—In making the determination under  
11          subparagraph (A), the neighborhood homes  
12          credit agency shall consider—

13                 “(i) the sources and uses of funds and  
14                 the total financing,

15                 “(ii) any proceeds or receipts gen-  
16                 erated or expected to be generated by rea-  
17                 son of tax benefits, and

18                 “(iii) the reasonableness of the devel-  
19                 opmental costs and fees.

20          “(2) ELIGIBLE DEVELOPMENT COSTS.—The  
21          term ‘eligible development costs’ means the amount  
22          which would be reasonable development costs if the  
23          amounts taken into account as paid or incurred for  
24          the acquisition of buildings and land did not exceed  
25          75 percent of such costs determined without regard

1 to any amount paid or incurred for the acquisition  
2 of buildings and land.

3 “(3) SUBSTANTIAL REHABILITATION.—The  
4 term ‘substantial rehabilitation’ means amounts paid  
5 or incurred for rehabilitation of a qualified residence  
6 if such amounts exceed the greater of—

7 “(A) \$20,000, or

8 “(B) 20 percent of the amounts paid or in-  
9 curred by the taxpayer for the acquisition of  
10 buildings and land with respect to such quali-  
11 fied residence.

12 “(4) CONSTRUCTION AND REHABILITATION  
13 ONLY AFTER ALLOCATION TAKEN INTO ACCOUNT.—

14 “(A) IN GENERAL.—The terms ‘reasonable  
15 development costs’ and ‘eligible development  
16 costs’ shall not include any amount paid or in-  
17 curred before the date on which an allocation is  
18 made to the taxpayer under subsection (e) with  
19 respect to the qualified project of which the  
20 qualified residence is part unless such amount  
21 is paid or incurred for the acquisition of build-  
22 ings or land.

23 “(B) LAND AND BUILDING ACQUISITION  
24 COSTS.—Amounts paid or incurred for the ac-  
25 quisition of buildings or land shall be included

1 under paragraph (A) only if paid or incurred  
2 not more than 3 years before the date on which  
3 the allocation referred to in subparagraph (A)  
4 is made. If the taxpayer acquired any building  
5 or land from an entity (or any related party to  
6 such entity) that holds an ownership interest in  
7 the taxpayer, then such entity must also have  
8 acquired such property within such 3-year pe-  
9 riod, and the acquisition cost included under  
10 subparagraph (A) with respect to the taxpayer  
11 shall not exceed the amount such entity paid or  
12 incurred to acquire such property.

13 “(c) QUALIFIED RESIDENCE.—For purposes of this  
14 section—

15 “(1) IN GENERAL.—The term ‘qualified resi-  
16 dence’ means a residence that—

17 “(A) is real property affixed on a perma-  
18 nent foundation,

19 “(B) is—

20 “(i) a house which is comprised of 4  
21 or fewer residential units,

22 “(ii) a condominium unit, or

23 “(iii) a house or an apartment owned  
24 by a cooperative housing corporation (as  
25 defined in section 216(b)),

1           “(C) is part of a qualified project with re-  
2           spect to the neighborhood homes credit agency  
3           has made an allocation under subsection (e),  
4           and

5           “(D) is located in a qualified census tract  
6           (determined as of the date of such allocation).

7           “(2) QUALIFIED CENSUS TRACT.—

8           “(A) IN GENERAL.—The term ‘qualified  
9           census tract’ means a census tract—

10           “(i) which—

11           “(I) has a median family income  
12           which does not exceed 80 percent of  
13           the median family income for the ap-  
14           plicable area,

15           “(II) has a poverty rate that is  
16           not less than 130 percent of the pov-  
17           erty rate of the applicable area, and

18           “(III) has a median value for  
19           owner-occupied homes that does not  
20           exceed the median value for owner-oc-  
21           cupied homes in the applicable area,

22           “(ii) which—

23           “(I) is located in a city which has  
24           a population of not less than 50,000  
25           and such city has a poverty rate that

1 is not less than 150 percent of the  
2 poverty rate of the applicable area,

3 “(II) has a median family income  
4 which does not exceed the median  
5 family income for the applicable area,  
6 and

7 “(III) has a median value for  
8 owner-occupied homes that does not  
9 exceed 80 percent of the median value  
10 for owner-occupied homes in the ap-  
11 plicable area,

12 “(iii) which—

13 “(I) is located in a nonmetropoli-  
14 tan county,

15 “(II) has a median family income  
16 which does not exceed the median  
17 family income for the applicable area,  
18 and

19 “(III) has been designated by a  
20 neighborhood homes credit agency  
21 under this clause, or

22 “(iv) which is not otherwise a quali-  
23 fied census tract and is located in a dis-  
24 aster area (as defined in section  
25 7508A(d)(3)), but only with respect to

1 credits allocated in any period during  
2 which the President of the United States  
3 has determined that such area warrants in-  
4 dividual or individual and public assistance  
5 by the Federal Government under the Rob-  
6 ert T. Stafford Disaster Relief and Emer-  
7 gency Assistance Act.

8 “(B) APPLICABLE AREA.—The term ‘appli-  
9 cable area’ means—

10 “(i) in the case of a metropolitan cen-  
11 sus tract, the metropolitan area in which  
12 such census tract is located, and

13 “(ii) in the case of a census tract  
14 other than a census tract described in  
15 clause (i), the State.

16 “(d) AFFORDABLE SALE.—For purposes of this sec-  
17 tion—

18 “(1) IN GENERAL.—The term ‘affordable sale’  
19 means a sale to a qualified homeowner of a qualified  
20 residence that the neighborhood homes credit agency  
21 certifies as meeting the standards promulgated  
22 under subsection (f)(1)(D) for a price that does not  
23 exceed—

24 “(A) in the case of any qualified residence  
25 not described in subparagraph (B), (C), or (D),

1 the amount equal to the product of 4 multiplied  
2 by the median family income for the applicable  
3 area (as determined pursuant to the most re-  
4 cent census data available as of the date of the  
5 contract for such sale),

6 “(B) in the case of a house comprised of  
7 2 residential units, 125 percent of the amount  
8 described in subparagraph (A),

9 “(C) in the case of a house comprised of  
10 3 residential units, 150 percent of the amount  
11 described in subparagraph (A), or

12 “(D) in the case of a house comprised of  
13 4 residential units, 175 percent of the amount  
14 described in subparagraph (A).

15 “(2) QUALIFIED HOMEOWNER.—The term  
16 ‘qualified homeowner’ means, with respect to a  
17 qualified residence, an individual—

18 “(A) who owns and uses such qualified res-  
19 idence as the principal residence of such indi-  
20 vidual, and

21 “(B) whose family income (determined as  
22 of the date that a binding contract for the af-  
23 fordable sale of such residence is entered into)  
24 is 140 percent or less of the median family in-

1           come for the applicable area in which the quali-  
2           fied residence is located.

3           “(e) CREDIT CEILING AND ALLOCATIONS.—

4           “(1) CREDIT LIMITED BASED ON ALLOCATIONS  
5           TO QUALIFIED PROJECTS.—

6           “(A) IN GENERAL.—The credit allowed  
7           under subsection (a) to any taxpayer for any  
8           taxable year with respect to one or more quali-  
9           fied residences which are part of the same  
10          qualified project shall not exceed the excess (if  
11          any) of—

12          “(i) the amount allocated by the  
13          neighborhood homes credit agency under  
14          this paragraph to such taxpayer with re-  
15          spect to such qualified project, over

16          “(ii) the aggregate amount of credit  
17          allowed under subsection (a) to such tax-  
18          payer with respect to qualified residences  
19          which are a part of such qualified project  
20          for all prior taxable years.

21          “(B) DEADLINE FOR COMPLETION.—No  
22          credit shall be allowed under subsection (a)  
23          with respect to any qualified residence unless  
24          the affordable sale of such residence is during  
25          the 5-year period beginning on the date of the

1 allocation to the qualified project of which such  
2 residence is a part (or, in the case of a qualified  
3 residence to which subsection (i) applies, the re-  
4 habilitation of such residence is completed dur-  
5 ing such 5-year period).

6 “(2) LIMITATIONS ON ALLOCATIONS TO QUALI-  
7 FIED PROJECTS.—

8 “(A) ALLOCATIONS LIMITED BY STATE  
9 NEIGHBORHOOD HOMES CREDIT CEILING.—The  
10 aggregate amount allocated to taxpayers with  
11 respect to qualified projects by the neighbor-  
12 hood homes credit agency of any State for any  
13 calendar year shall not exceed the State neigh-  
14 borhood homes credit amount of such State for  
15 such calendar year.

16 “(B) SET-ASIDE FOR CERTAIN PROJECTS  
17 INVOLVING QUALIFIED NONPROFIT ORGANIZA-  
18 TIONS.—Rules similar to the rules of section  
19 42(h)(5) shall apply for purposes of this sec-  
20 tion.

21 “(3) DETERMINATION OF STATE NEIGHBOR-  
22 HOOD HOMES CREDIT CEILING.—

23 “(A) IN GENERAL.—The State neighbor-  
24 hood homes credit amount for a State for a cal-  
25 endar year is an amount equal to the sum of—

1 “(i) the greater of—  
2 “(I) the product of \$6, multiplied  
3 by the State population (determined  
4 in accordance with section 146(j)), or  
5 “(II) \$8,000,000, and  
6 “(ii) any amount previously allocated  
7 to any taxpayer with respect to any quali-  
8 fied project by the neighborhood homes  
9 credit agency of such State which can no  
10 longer be allocated to any qualified resi-  
11 dence because the 5-year period described  
12 in paragraph (1)(B) expires during cal-  
13 endar year.

14 “(B) 3-YEAR CARRYFORWARD OF UNUSED  
15 LIMITATION.—The State neighborhood homes  
16 credit amount for a State for a calendar year  
17 shall be increased by the excess (if any) of the  
18 State neighborhood homes credit amount for  
19 such State for the preceding calendar year over  
20 the aggregate amount allocated by the neigh-  
21 borhood homes credit agency of such State dur-  
22 ing such preceding calendar year. Any amount  
23 carried forward under the preceding sentence  
24 shall not be carried past the third calendar year  
25 after the calendar year in which such credit

1 amount originally arose, determined on a first-  
2 in, first-out basis.

3 “(f) RESPONSIBILITIES OF NEIGHBORHOOD HOMES  
4 CREDIT AGENCIES.—

5 “(1) IN GENERAL.—Notwithstanding subsection  
6 (e), the State neighborhood homes credit dollar  
7 amount shall be zero for a calendar year unless the  
8 neighborhood homes credit agency of the State—

9 “(A) allocates such amount pursuant to a  
10 qualified allocation plan of the neighborhood  
11 homes credit agency,

12 “(B) allocates not more than 20 percent of  
13 amounts allocated in the previous year (or for  
14 allocations made in 2022, not more than 20  
15 percent of the neighborhood homes credit ceil-  
16 ing for such year) to projects with respect to  
17 qualified residences which—

18 “(i) are located in census tracts de-  
19 scribed in subsection (c)(2)(A)(iii),  
20 (c)(2)(A)(iv), (i)(5), or

21 “(ii) are not located in a qualified  
22 census tract but meet the requirements of  
23 (i)(8),

1           “(C) promulgates standards with respect  
2 to reasonable qualified development costs and  
3 fees,

4           “(D) promulgates standards with respect  
5 to construction quality,

6           “(E) in the case of any neighborhood  
7 homes credit agency which makes an allocation  
8 to a qualified project which includes any quali-  
9 fied residence to which subsection (i) applies,  
10 promulgates standards with respect to pro-  
11 tecting the owners of such residences, including  
12 the capacity of such owners to pay rehabilita-  
13 tion costs not covered by the credit provided by  
14 this section and providing for the disclosure to  
15 such owners of their rights and responsibilities  
16 with respect to the rehabilitation of such resi-  
17 dences, and

18           “(F) submits to the Secretary (at such  
19 time and in such manner as the Secretary may  
20 prescribe) an annual report specifying—

21           “(i) the amount of the neighborhood  
22 homes credits allocated to each qualified  
23 project for the previous year,

1                   “(ii) with respect to each qualified  
2                   residence completed in the preceding cal-  
3                   endar year—

4                   “(I) the census tract in which  
5                   such qualified residence is located,

6                   “(II) with respect to the qualified  
7                   project that includes such qualified  
8                   residence, the year in which such  
9                   project received an allocation under  
10                  this section,

11                  “(III) whether such qualified res-  
12                  idence was new, substantially rehabili-  
13                  tated and sold to a qualified home-  
14                  owner, or substantially rehabilitated  
15                  pursuant to subsection (i),

16                  “(IV) the eligible development  
17                  costs of such qualified residence,

18                  “(V) the amount of the neighbor-  
19                  hood homes credit with respect to  
20                  such qualified residence,

21                  “(VI) the sales price of such  
22                  qualified residence, if applicable, and

23                  “(VII) the family income of the  
24                  qualified homeowner (expressed as a  
25                  percentage of the applicable area me-

1                   dian family income for the location of  
2                   the qualified residence), and

3                   “(iii) such other information as the  
4                   Secretary may require.

5                   “(2) QUALIFIED ALLOCATION PLAN.—For pur-  
6                   poses of this subsection, the term ‘qualified alloca-  
7                   tion plan’ means any plan which—

8                   “(A) sets forth the selection criteria to be  
9                   used to prioritize qualified projects for alloca-  
10                  tions of State neighborhood homes credit dollar  
11                  amounts, including—

12                  “(i) the need for new or substantially  
13                  rehabilitated owner-occupied homes in the  
14                  area addressed by the project,

15                  “(ii) the expected contribution of the  
16                  project to neighborhood stability and revi-  
17                  talization, including the impact on neigh-  
18                  borhood residents,

19                  “(iii) the capability and prior perform-  
20                  ance of the project sponsor, and

21                  “(iv) the likelihood the project will re-  
22                  sult in long-term homeownership,

23                  “(B) has been made available for public  
24                  comment, and

1           “(C) provides a procedure that the neigh-  
2           borhood homes credit agency (or any agent or  
3           contractor of such agency) shall follow for pur-  
4           poses of—

5                   “(i) identifying noncompliance with  
6                   any provisions of this section, and

7                   “(ii) notifying the Internal Revenue  
8                   Service of any such noncompliance of  
9                   which the agency becomes aware.

10          “(g) REPAYMENT.—

11               “(1) IN GENERAL.—

12                   “(A) SOLD DURING 5-YEAR PERIOD.—If a  
13                   qualified residence is sold during the 5-year pe-  
14                   riod beginning immediately after the affordable  
15                   sale of such qualified residence referred to in  
16                   subsection (a), the seller (with respect to the  
17                   sale during such 5-year period) shall transfer  
18                   an amount equal to the repayment amount to  
19                   the relevant neighborhood homes credit agency.

20                   “(B) USE OF REPAYMENTS.—A neighbor-  
21                   hood homes credit agency shall use any amount  
22                   received pursuant to subparagraph (A) only for  
23                   purposes of qualified projects.

24               “(2) REPAYMENT AMOUNT.—For purposes of  
25               paragraph (1)(A), the repayment amount is an

1 amount equal to 50 percent of the gain from the  
2 sale to which the repayment relates, reduced by 20  
3 percent for each year of the 5-year period referred  
4 to in paragraph (1)(A) which ends before the date  
5 of such sale.

6 “(3) LIEN FOR REPAYMENT AMOUNT.—A  
7 neighborhood homes credit agency receiving an allo-  
8 cation under this section shall place a lien on each  
9 qualified residence that is built or rehabilitated as  
10 part of a qualified project for an amount such agen-  
11 cy deems necessary to ensure potential repayment  
12 pursuant to paragraph (1)(A).

13 “(4) DENIAL OF DEDUCTIONS IF CONVERTED  
14 TO RENTAL HOUSING.—If, during the 5-year period  
15 described in paragraph (1), an individual who owns  
16 a qualified residence fails to use such qualified resi-  
17 dence as such individual’s principal residence for any  
18 period of time, no deduction shall be allowed for ex-  
19 penses paid or incurred by such individual with re-  
20 spect to renting, during such period of time, such  
21 qualified residence.

22 “(5) WAIVER.—The neighborhood homes credit  
23 agency may waive the repayment required under  
24 paragraph (1)(A) in the case of homeowner experi-  
25 encing a hardship.

1 “(h) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) NEIGHBORHOOD HOMES CREDIT AGEN-  
4 CY.—The term ‘neighborhood homes credit agency’  
5 means the agency designated by the governor of a  
6 State as the neighborhood homes credit agency of  
7 the State.

8 “(2) QUALIFIED PROJECT.—The term ‘qualified  
9 project’ means a project that a neighborhood homes  
10 credit agency certifies will build or substantially re-  
11 habilitate one or more qualified residences.

12 “(3) DETERMINATIONS OF FAMILY INCOME.—  
13 Rules similar to the rules of section 143(f)(2) shall  
14 apply for purposes of this section.

15 “(4) POSSESSIONS TREATED AS STATES.—The  
16 term ‘State’ includes the District of Columbia and  
17 the possessions of the United States.

18 “(5) SPECIAL RULES RELATED TO CONDOMIN-  
19 IUMS AND COOPERATIVE HOUSING CORPORATIONS.—

20 “(A) DETERMINATION OF DEVELOPMENT  
21 COSTS.—In the case of a qualified residence de-  
22 scribed in clause (ii) or (iii) of subsection  
23 (c)(1)(A), the reasonable development costs and  
24 eligible development costs of such qualified resi-  
25 dence shall be an amount equal to such costs,

1           respectively, of the entire condominium or coop-  
2           erative housing property in which such qualified  
3           residence is located, multiplied by a fraction—

4                   “(i) the numerator of which is the  
5                   total floor space of such qualified resi-  
6                   dence, and

7                   “(ii) the denominator of which is the  
8                   total floor space of all residences within  
9                   such property.

10           “(B) TENANT-STOCKHOLDERS OF COOPER-  
11           ATIVE HOUSING CORPORATIONS TREATED AS  
12           OWNERS.—In the case of a cooperative housing  
13           corporation (as such term is defined in section  
14           216(b)), a tenant-stockholder shall be treated  
15           as owning the house or apartment which such  
16           person is entitled to occupy.

17           “(6) RELATED PARTY SALES NOT TREATED AS  
18           AFFORDABLE SALES.—

19                   “(A) IN GENERAL.—A sale between related  
20                   persons shall not be treated as an affordable  
21                   sale.

22                   “(B) RELATED PERSONS.—For purposes  
23                   of this paragraph, a person (in this subpara-  
24                   graph referred to as the ‘related person’) is re-  
25                   lated to any person if the related person bears

1 a relationship to such person specified in sec-  
2 tion 267(b) or 707(b)(1), or the related person  
3 and such person are engaged in trades or busi-  
4 nesses under common control (within the mean-  
5 ing of subsections (a) and (b) of section 52).  
6 For purposes of the preceding sentence, in ap-  
7 plying section 267(b) or 707(b)(1), ‘10 percent’  
8 shall be substituted for ‘50 percent’.

9 “(7) INFLATION ADJUSTMENT.—

10 “(A) IN GENERAL.—In the case of a cal-  
11 endar year after 2022, the dollar amounts in  
12 subsections (b)(3)(A), (e)(3)(A)(i)(I),  
13 (e)(3)(A)(i)(II), and (i)(2)(C) shall each be in-  
14 creased by an amount equal to—

15 “(i) such dollar amount, multiplied by

16 “(ii) the cost-of-living adjustment de-  
17 termined under section 1(f)(3) for such  
18 calendar year by substituting ‘calendar  
19 year 2021’ for ‘calendar year 2016’ in sub-  
20 paragraph (A)(ii) thereof.

21 “(B) ROUNDING.—

22 “(i) In the case of the dollar amounts  
23 in subsection (b)(3)(A) and (i)(2)(C), any  
24 increase under paragraph (1) which is not

1 a multiple of \$1,000 shall be rounded to  
2 the nearest multiple of \$1,000.

3 “(ii) In the case of the dollar amount  
4 in subsection (e)(3)(A)(i)(I), any increase  
5 under paragraph (1) which is not a mul-  
6 tiple of \$0.01 shall be rounded to the near-  
7 est multiple of \$0.01.

8 “(iii) In the case of the dollar amount  
9 in subsection (e)(3)(A)(i)(II), any increase  
10 under paragraph (1) which is not a mul-  
11 tiple of \$100,000 shall be rounded to the  
12 nearest multiple of \$100,000.

13 “(8) REPORT.—

14 “(A) IN GENERAL.—The Secretary shall  
15 annually issue a report, to be made available to  
16 the public, which contains the information sub-  
17 mitted pursuant to subsection (f)(1)(F).

18 “(B) DE-IDENTIFICATION.—The Secretary  
19 shall ensure that any information made public  
20 pursuant to paragraph (1) excludes any infor-  
21 mation that would allow for the identification of  
22 qualified homeowners.

23 “(9) LIST OF QUALIFIED CENSUS TRACTS.—

24 The Secretary of Housing and Urban Development

1 shall, for each year, make publicly available a list of  
2 qualified census tracts under—

3 “(A) on a combined basis, clauses (i) and  
4 (ii) of subsection (c)(2)(A),

5 “(B) clause (iii) of such subsection, and

6 “(C) subsection (i)(5)(A).

7 “(i) APPLICATION OF CREDIT WITH RESPECT TO  
8 OWNER-OCCUPIED REHABILITATIONS.—

9 “(1) IN GENERAL.—In the case of a qualified  
10 rehabilitation by the taxpayer of any qualified resi-  
11 dence which is owned (as of the date that the writ-  
12 ten binding contract referred to in paragraph (3) is  
13 entered into) by a specified homeowner, the rules of  
14 paragraphs (2) through (7) shall apply.

15 “(2) ALTERNATIVE CREDIT DETERMINATION.—  
16 In the case of any qualified residence described in  
17 paragraph (1), the neighborhood homes credit deter-  
18 mined under subsection (a) with respect to such resi-  
19 dence shall (in lieu of any credit otherwise deter-  
20 mined under subsection (a) with respect to such resi-  
21 dence) be allowed in the taxable year during which  
22 the qualified rehabilitation is completed (as deter-  
23 mined by the neighborhood homes credit agency)  
24 and shall be equal to the least of—

25 “(A) the excess (if any) of—

1           “(i) the amounts paid or incurred by  
2           the taxpayer for the qualified rehabilitation  
3           of the qualified residence to the extent that  
4           such amounts are certified by the neigh-  
5           borhood homes credit agency (at the time  
6           of the completion of such rehabilitation) as  
7           meeting the standards specified pursuant  
8           to subsection (f)(1)(C), over

9           “(ii) any amounts paid to such tax-  
10          payer for such rehabilitation,

11          “(B) 50 percent of the amounts described  
12          in subparagraph (A)(i), or

13          “(C) \$50,000.

14          “(3) QUALIFIED REHABILITATION.—

15          “(A) IN GENERAL.—For purposes of this  
16          subsection, the term ‘qualified rehabilitation’  
17          means a rehabilitation or reconstruction per-  
18          formed pursuant to a written binding contract  
19          between the taxpayer and the qualified home-  
20          owner if the amount paid or incurred by the  
21          taxpayer in the performance of such rehabilita-  
22          tion or reconstruction exceeds the dollar  
23          amount in effect under subsection (b)(3)(A).

24          “(B) APPLICATION OF LIMITATION TO EX-  
25          PENSES PAID OR INCURRED AFTER ALLOCA-

1           TION.—A rule similar to the rule of section  
2           (b)(4) shall apply for purposes of this sub-  
3           section.

4           “(4) SPECIFIED HOMEOWNER.—For purposes  
5           of this subsection, the term ‘qualified homeowner’  
6           means, with respect to a qualified residence, an indi-  
7           vidual—

8                   “(A) who owns and uses such qualified res-  
9                   idence as the principal residence of such indi-  
10                  vidual as of the date that the written binding  
11                  contract referred to in paragraph (3) is entered  
12                  into, and

13                   “(B) whose family income (determined as  
14                   of such date) does not exceed the median family  
15                   income for the applicable area (with respect to  
16                   the census tract in which the qualified residence  
17                   is located).

18           “(5) ADDITIONAL CENSUS TRACTS IN WHICH  
19           OWNER-OCCUPIED RESIDENCES MAY BE LOCATED.—  
20           In the case of any qualified residence described in  
21           paragraph (1), the term ‘qualified census tract’ in-  
22           cludes any census tract which—

23                   “(A) meets the requirements of subsection  
24                   (c)(2)(A)(i) without regard to subclause (III)  
25                   thereof, and

1           “(B) is designated by the neighborhood  
2           homes credit agency for purposes of this para-  
3           graph.

4           “(6) MODIFICATION OF REPAYMENT REQUIRE-  
5           MENT.—In the case of any qualified residence de-  
6           scribed in paragraph (1), subsection (g) shall be ap-  
7           plied by beginning the 5-year period otherwise de-  
8           scribed therein on the date on which the qualified  
9           owner acquired the residence.

10          “(7) RELATED PARTIES.—Paragraph (1) shall  
11          not apply if the taxpayer is the owner of the quali-  
12          fied residence described in paragraph (1) or is re-  
13          lated (within the meaning of subsection (h)(6)(B))  
14          to such owner.

15          “(8) PYRRHOTITE REMEDIATION.—The require-  
16          ment of subsection (c)(1)(C) shall not apply to a  
17          qualified rehabilitation under this subsection of a  
18          qualified residence that is documented by an engi-  
19          neer’s report and core testing to have a foundation  
20          that is adversely impacted by pyrrhotite or other  
21          iron sulfide minerals.

22          “(j) REGULATIONS.—The Secretary shall prescribe  
23          such regulations as may be necessary or appropriate to  
24          carry out the purposes of this section, including regula-

1 tions that prevent avoidance of the rules, and abuse of  
2 the purposes, of this section.”.

3 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
4 NESS CREDIT.—Section 38(b), as amended by the pre-  
5 ceding provisions of this Act, is amended by striking  
6 “plus” at the end of paragraph (34), by striking the period  
7 at the end of paragraph (35) and inserting “, plus”, and  
8 by adding at the end the following new paragraph:

9 “(36) the neighborhood homes credit deter-  
10 mined under section 42A(a),”.

11 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
12 IMUM TAX.—Section 38(c)(4)(B), as amended by the pre-  
13 ceding provisions of this Act, is amended by redesignating  
14 clauses (iv) through (xiii) as clauses (v) through (xiv), re-  
15 spectively, and by inserting after clause (iii) the following  
16 new clause:

17 “(iv) the credit determined under sec-  
18 tion 42A,”.

19 (d) CONFORMING AMENDMENTS.—

20 (1) Subsections (i)(3)(C), (i)(6)(B)(i), and  
21 (k)(1) of section 469 are each amended by inserting  
22 “or 42A” after “section 42”.

23 (2) The table of sections for subpart D of part  
24 IV of subchapter A of chapter 1 is amended by in-

1           serting after the item relating to section 42 the fol-  
2           lowing new item:

“Sec. 42A. Neighborhood homes credit.”.

3           (e) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2021.

6                           **PART 6—INVESTMENTS IN TRIBAL**  
7   **INFRASTRUCTURE**

8   **SEC. 135601. TREATMENT OF INDIAN TRIBES AS STATES**  
9                           **WITH RESPECT TO BOND ISSUANCE.**

10          (a) **IN GENERAL.**—Section 7871(c) is amended to  
11 read as follows:

12          “(c) **SPECIAL RULES FOR TAX-EXEMPT BONDS.**—

13                  “(1) **IN GENERAL.**—In applying section 146 to  
14 bonds issued by Indian Tribal Governments the Sec-  
15 retary shall annually—

16                          “(A) establish a national bond volume cap  
17 based on the greater of—

18                                  “(i) the State population formula ap-  
19 proach in section 146(d)(1)(A) (using na-  
20 tional Tribal population estimates supplied  
21 annually by the Department of the Interior  
22 in consultation with the Census Bureau),  
23 and

24                                  “(ii) the minimum State ceiling  
25 amount in section 146(d)(1)(B) (as ad-

1           justed in accordance with the cost of living  
2           provision in section 146(d)(2)),

3           “(B) allocate such national bond volume  
4           cap among all Indian Tribal Governments seek-  
5           ing such an allocation in a particular year  
6           under regulations prescribed by the Secretary.

7           “(2) APPLICATION OF GEOGRAPHIC RESTRIC-  
8           TION.—In the case of national bond volume cap allo-  
9           cated under paragraph (1), section 146(k)(1) shall  
10          not apply to the extent that such cap is used with  
11          respect to financing for a facility located on qualified  
12          Indian lands.

13          “(3) RESTRICTION ON FINANCING OF CERTAIN  
14          GAMING FACILITIES.—No portion of the volume cap  
15          allocated under this subsection may be used with re-  
16          spect to the financing of any portion of a building  
17          in which class II or class III gaming (as defined in  
18          section 4 of the Indian Gaming Regulatory Act) is  
19          conducted or housed or any property actually used  
20          in the conduct of such gaming.

21          “(4) DEFINITIONS AND SPECIAL RULES.—For  
22          purposes of this subsection—

23                 “(A) INDIAN TRIBAL GOVERNMENT.—The  
24                 term ‘Indian Tribal Government’ means the  
25                 governing body of an Indian Tribe, band, na-

1           tion, or other organized group or community, or  
2           of Alaska Natives, which is recognized as eligi-  
3           ble for the special programs and services pro-  
4           vided by the United States to Indians because  
5           of their status as Indians, and also includes any  
6           agencies, instrumentalities or political subdivi-  
7           sions thereof.

8           “(B) INTERTRIBAL CONSORTIUMS, ETC.—  
9           In any case in which an Indian Tribal Govern-  
10          ment has authorized an intertribal consortium,  
11          a Tribal organization, or an Alaska Native re-  
12          gional or village corporation, as defined in, or  
13          established pursuant to, the Alaska Native  
14          Claims Settlement Act, to plan for, coordinate  
15          or otherwise administer services, finances, func-  
16          tions, or activities on its behalf under this sub-  
17          section, the authorized entity shall have the  
18          rights and responsibilities of the authorizing In-  
19          dian Tribal Government only to the extent pro-  
20          vided in the Authorizing resolution.

21          “(C) QUALIFIED INDIAN LANDS.—The  
22          term ‘qualified Indian lands’ shall mean an In-  
23          dian reservation as defined in section 3(d) of  
24          the Indian Financing Act of 1974 (25 U.S.C.  
25          1452(d)), including lands which are within the

1 jurisdictional area of an Oklahoma Indian Tribe  
2 (as determined by the Secretary of the Interior)  
3 and shall include lands outside a reservation  
4 where the facility is to be placed in service in  
5 connection with—

6 “(i) the active conduct of a trade or  
7 business by an Indian Tribe on, contiguous  
8 to, within reasonable proximity of, or with  
9 a substantial connection to, an Indian res-  
10 ervation or Alaska Native village, or

11 “(ii) infrastructure (including roads,  
12 power lines, water systems, railroad spurs,  
13 and communication facilities) serving an  
14 Indian reservation or Alaska Native vil-  
15 lage.”.

16 (b) CONFORMING AMENDMENT.—Subparagraph (B)  
17 of section 45(c)(9) is amended to read as follows:

18 “(B) INDIAN TRIBE.—For purposes of this  
19 paragraph, the term ‘Indian tribe’ has the  
20 meaning given the term ‘Indian Tribal Govern-  
21 ment’ by section 7871(c)(3)(A).”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to obligations issued in calendar  
24 years beginning after the date of the enactment of this  
25 Act.

1 **SEC. 135602. NEW MARKETS TAX CREDIT FOR TRIBAL STA-**  
2 **TISTICAL AREAS.**

3 (a) ADDITIONAL ALLOCATIONS FOR TRIBAL STATIS-  
4 TICAL AREAS.—Section 45D(f), as amended by the pre-  
5 ceding provisions of this Act, is amended by adding at the  
6 end the following new paragraph:

7 “(5) ADDITIONAL ALLOCATIONS FOR TRIBAL  
8 STATISTICAL AREAS.—

9 “(A) IN GENERAL.—In the case of each  
10 calendar year after 2021, there is (in addition  
11 to any limitation under any other paragraph of  
12 this subsection) a new markets tax credit limi-  
13 tation of \$175,000,000 which shall be allocated  
14 by the Secretary as provided in paragraph (2)  
15 except that such limitation may only be allo-  
16 cated with respect to Tribal Statistical Areas.

17 “(B) CARRYOVER OF UNUSED TRIBAL STA-  
18 TISTICAL AREA LIMITATION.—

19 “(i) IN GENERAL.—If the credit limi-  
20 tation under subparagraph (A) for any cal-  
21 endar year exceeds the amount of such  
22 limitation allocated by the Secretary for  
23 such calendar year, such limitation for the  
24 succeeding calendar year shall be increased  
25 by the amount of such excess.

1 “(ii) LIMITATION ON CARRYOVER.—

2 No amount of credit limitation may be car-  
3 ried under clause (i) past the 5th calendar  
4 year following the calendar year in which  
5 such amount of credit limitation arose.

6 “(iii) TRANSFER OF EXPIRED TRIBAL

7 STATISTICAL AREA LIMITATION TO GEN-  
8 ERAL LIMITATION.—In the case of any  
9 amount of credit limitation which would  
10 (but for clause (ii)) be carried under clause  
11 (i) to the 6th calendar year following the  
12 calendar year in which such amount of  
13 credit limitation arose, the new market tax  
14 credit limitation under paragraph (1) for  
15 such 6th calendar year shall be increased  
16 by the amount of such credit limitation.

17 “(C) TRIBAL STATISTICAL AREA.—For

18 purposes of this paragraph, the term ‘Tribal  
19 Statistical Area’ means—

20 “(i) any low-income community which  
21 is located in any Tribal Census Tract,  
22 Oklahoma Tribal Statistical Area, Tribal-  
23 Designated Statistical Area, Alaska Native  
24 Village Statistical Area, or Hawaiian  
25 Home Land, and

1                   “(ii) any low-income community de-  
2                   scribed in subsection (e)(1)(B).”.

3           (b) ELIGIBILITY OF CERTAIN PROJECTS SERVING  
4 TRIBAL MEMBERS.—Section 45D(e)(1) is amended to  
5 read as follows:

6                   “(1) IN GENERAL.—The term ‘low-income com-  
7                   munity’ means any area—

8                   “(A) comprising a population census tract  
9                   if—

10                   “(i) the poverty rate for such tract is  
11                   at least 20 percent, or

12                   “(ii)(I) in the case of a tract not lo-  
13                   cated within a metropolitan area, the me-  
14                   dian family income for such tract does not  
15                   exceed 80 percent of statewide median  
16                   family income, or

17                   “(II) in the case of a tract located  
18                   within a metropolitan area, the median  
19                   family income for such tract does not ex-  
20                   ceed 80 percent of the greater of statewide  
21                   median family income or the metropolitan  
22                   area median family income,

23                   “(B) which is used for a qualified active  
24                   low-income community business which—

1           “(i) services a significant population  
2           of Tribal or Alaska Native Village mem-  
3           bers who are residents of a low-income  
4           community described in subsection  
5           (f)(5)(C)(i), and

6           “(ii) obtains a written statement from  
7           the relevant Indian Tribal Government  
8           (within the meaning of section 7871(e))  
9           that documents the eligibility such project  
10          with respect to the requirement of clause  
11          (i).

12          Subparagraph (A)(ii) shall be applied using posses-  
13          sion wide median family income in the case of cen-  
14          sus tracts located within a possession of the United  
15          States.”.

16          (c) APPLICATION OF INFLATION ADJUSTMENT.—  
17          Section 45D(f)(4), as added by the preceding provisions  
18          of this Act, is amended by striking “the dollar amount  
19          paragraph (1)(H) shall be increased” and inserting “the  
20          dollar amounts in paragraphs (1)(H) and (5)(A) shall  
21          each be increased”.

22          (d) COORDINATION WITH EXISTING CARRYOVER.—  
23          Section 45D(f)(3), as amended by the preceding provisions  
24          of this Act, is amended to read as follows:

1           “(3) CARRYOVER OF UNUSED LIMITATION.—If  
2           the new markets tax credit limitation under para-  
3           graph (1) for any calendar year exceeds the amount  
4           of such limitation allocated by the Secretary under  
5           paragraph (2) for such year, such limitation for the  
6           succeeding calendar year shall be increased by the  
7           amount of such excess.”.

8           (e) REGULATORY AUTHORITY.—Section 45D(i) is  
9           amended by striking “and” at the end of paragraph (5),  
10          by striking the period at the end of paragraph (6) and  
11          inserting “, and”, and by adding at the end the following  
12          new paragraph:

13           “(7) which provide documentation requirements  
14          for the written statement required under subsection  
15          (e)(1)(B)(ii), and

16           “(8) which provide procedures for determining  
17          which projects under subsection (e)(1)(B) are quali-  
18          fied active low-income community businesses with re-  
19          spect to the populations described in such sub-  
20          section. Such procedures shall take into account the  
21          location needs of such projects, especially with re-  
22          spect to projects that serve multiple tribal or Alaska  
23          Native Village communities.”.

24          (f) EFFECTIVE DATE.—The amendments made by  
25          this section shall apply to new markets tax credit limita-

1 tion determined for calendar years after December 31,  
2 2021.

3 **SEC. 135603. INCLUSION OF INDIAN AREAS AS DIFFICULT**  
4 **DEVELOPMENT AREAS FOR PURPOSES OF**  
5 **CERTAIN BUILDINGS.**

6 (a) IN GENERAL.—Subclause (I) of section  
7 42(d)(5)(B)(iii), as amended by the preceding provisions  
8 of this Act, is amended by inserting “, any Indian area”  
9 after “median gross income”.

10 (b) INDIAN AREA.—Clause (iii) of section  
11 42(d)(5)(B), as amended by the preceding provisions of  
12 this Act is amended by redesignating subclause (III) as  
13 subclause (V) and by inserting after subclause (II) the fol-  
14 lowing new subclauses:

15 “(III) INDIAN AREA.—For pur-  
16 poses of subclause (I), the term ‘In-  
17 dian area’ means any Indian area (as  
18 defined in section 4(11) of the Native  
19 American Housing Assistance and  
20 Self Determination Act of 1996 (25  
21 U.S.C. 4103(11))).

22 “(IV) SPECIAL RULE FOR BUILD-  
23 INGS IN INDIAN AREAS.—In the case  
24 of an area which is a difficult develop-  
25 ment area solely because it is an In-

1           dian area, a building shall not be  
2           treated as located in such area unless  
3           such building is assisted or financed  
4           under the Native American Housing  
5           Assistance and Self Determination  
6           Act of 1996 (25 U.S.C. 4101 et seq.)  
7           or the project sponsor is an Indian  
8           tribe (as defined in section  
9           45A(c)(6)), a tribally designated hous-  
10          ing entity (as defined in section 4(22)  
11          of such Act (25 U.S.C. 4103(22))), or  
12          wholly owned or controlled by such an  
13          Indian tribe or tribally designated  
14          housing entity.”.

15          (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to buildings placed in service after  
17 December 31, 2021.

18          **PART 7—INVESTMENTS IN THE TERRITORIES**

19          **SEC. 135701. POSSESSIONS ECONOMIC ACTIVITY CREDIT.**

20          (a) IN GENERAL.—Subpart D of part IV of sub-  
21 chapter A of chapter 1, as amended by the preceding pro-  
22 visions of this Act, is amended by adding at the end the  
23 following new section:

1 **“SEC. 45V. POSSESSIONS ECONOMIC ACTIVITY CREDIT.**

2       “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
3 tion 38, in the case of a qualified domestic corporation  
4 the possessions economic activity credit determined under  
5 this section for a taxable year is an amount equal to 20  
6 percent of the sum of the qualified possession wages and  
7 allocable employee fringe benefit expenses paid or incurred  
8 by the taxpayer for the taxable year.

9       “(b) QUALIFIED DOMESTIC CORPORATION; QUALI-  
10 FIED CORPORATION.—For purposes of this section—

11           “(1) IN GENERAL.—The term ‘qualified domes-  
12 tic corporation’ means any domestic corporation  
13 which is—

14                   “(A) a qualified corporation, or

15                   “(B) a United States shareholder of a for-  
16 eign corporation which—

17                           “(i) is a qualified corporation, and

18                           “(ii) is wholly owned by the United  
19 States shareholder together with any cor-  
20 porations which are members of the same  
21 affiliated group (within the meaning of sec-  
22 tion 1504(a)) as such United States share-  
23 holder.

24           “(2) QUALIFIED CORPORATION.—The term  
25 ‘qualified corporation’ means any corporation if such  
26 corporation meets the following requirements:

1           “(A) SOURCE QUALIFICATION.—80 percent  
2           or more of the gross income of the corporation  
3           for the 3-year period immediately preceding the  
4           close of the taxable year (or for such part of  
5           such period immediately preceding the close of  
6           such taxable year as may be applicable) was de-  
7           rived from sources within a possession of the  
8           United States (determined without regard to  
9           section 904(f)).

10           “(B) TRADE OR BUSINESS QUALIFICA-  
11           TION.—75 percent or more of the gross income  
12           of the corporation for such period or such part  
13           thereof was derived from the active conduct of  
14           a trade or business within a possession of the  
15           United States.

16           “(3) SPECIAL RULE FOR SEPARATE AND  
17           CLEARLY IDENTIFIED UNITS OF FOREIGN CORPORA-  
18           TIONS.—

19           “(A) IN GENERAL.—In the case of a  
20           United States shareholder of a foreign corpora-  
21           tion which—

22                   “(i) is not a qualified corporation but  
23                   with respect to which the ownership re-  
24                   quirements of paragraph (1)(B)(ii) are  
25                   met, and

1           “(ii) has an eligible foreign business  
2           unit which, if such unit were a corporation,  
3           would be a qualified corporation with re-  
4           spect to which such ownership require-  
5           ments would be met,  
6           then, for purposes of this section, the United  
7           States shareholder may elect to treat such unit  
8           as a separate foreign corporation which meets  
9           the requirements of paragraph (1)(B) and with  
10          respect to which such shareholder is a United  
11          States shareholder.

12           “(B) ELIGIBLE FOREIGN BUSINESS  
13          UNIT.—For purposes of this paragraph, the  
14          term ‘eligible foreign business unit’ means a  
15          separate and clearly identified foreign unit of a  
16          trade or business, including a partnership or an  
17          entity treated as disregarded as a separate enti-  
18          ty from its owner (under section 7701 or other  
19          provision under this title), which maintains sep-  
20          arate books and records.

21           “(C) SPECIAL ELECTION FOR AFFILIATED  
22          GROUPS.—In the case of an affiliated group de-  
23          scribed in paragraph (1)(B)(ii), the election  
24          under subparagraph (A) with respect to any eli-  
25          gible foreign business unit shall be made by the

1 common parent of such group and shall apply  
2 uniformly to all members of such group which  
3 are United States shareholders with respect to  
4 the foreign corporation which has such unit.

5 “(c) QUALIFIED POSSESSION WAGES.—For purposes  
6 of this section—

7 “(1) IN GENERAL.—The term ‘qualified posses-  
8 sion wages’ means wages paid or incurred by the  
9 qualified corporation during the taxable year in con-  
10 nection with the active conduct of a trade or busi-  
11 ness within a possession of the United States to any  
12 employee for services performed in such possession,  
13 but only if such services are performed while the  
14 principal place of employment of such employee is  
15 within such possession.

16 “(2) LIMITATION ON AMOUNT OF WAGES  
17 TAKEN INTO ACCOUNT.—

18 “(A) IN GENERAL.—The amount of wages  
19 which may be taken into account under para-  
20 graph (1) with respect to any employee for any  
21 taxable year shall not exceed \$50,000.

22 “(B) TREATMENT OF PART-TIME EMPLOY-  
23 EES, ETC.—If—

24 “(i) any employee is not employed by  
25 the qualified corporation on a substantially

1 full-time basis at all times during the tax-  
2 able year, or

3 “(ii) the principal place of employ-  
4 ment of any employee with the qualified  
5 corporation is not within a possession at  
6 all times during the taxable year,

7 the limitation applicable under paragraph (1)  
8 with respect to such employee shall be the ap-  
9 propriate portion (as determined by the Sec-  
10 retary) of the limitation which would otherwise  
11 be in effect under paragraph (1).

12 “(C) WAGES.—

13 “(i) IN GENERAL.—Except as pro-  
14 vided in clause (ii), the term ‘wages’ has  
15 the meaning given to such term by sub-  
16 section (b) of section 3306 (determined  
17 without regard to any dollar limitation  
18 contained in such section). For purposes of  
19 the preceding sentence, such subsection (b)  
20 shall be applied as if the term ‘United  
21 States’ included all possessions of the  
22 United States.

23 “(ii) SPECIAL RULE FOR AGRICUL-  
24 TURAL LABOR AND RAILWAY LABOR.—In  
25 any case to which subparagraph (A) or (B)

1 of paragraph (1) of section 51(h) applies,  
2 the term ‘wages’ has the meaning given to  
3 such term by section 51(h)(2).

4 “(3) ALLOCABLE EMPLOYEE FRINGE BENEFIT  
5 EXPENSES.—

6 “(A) IN GENERAL.—The allocable em-  
7 ployee fringe benefit expenses of any qualified  
8 corporation for any taxable year is an amount  
9 which bears the same ratio to the amount de-  
10 termined under subparagraph (B) for such tax-  
11 able year as—

12 “(i) the aggregate amount of the  
13 qualified corporation’s qualified possession  
14 wages for such taxable year, bears to

15 “(ii) the aggregate amount of the  
16 wages paid or incurred by such qualified  
17 corporation during such taxable year.

18 In no event shall the amount determined under  
19 the preceding sentence exceed 15 percent of the  
20 amount referred to in clause (i).

21 “(B) EXPENSES TAKEN INTO ACCOUNT.—

22 For purposes of subparagraph (A), the amount  
23 determined under this subparagraph for any  
24 taxable year is the aggregate amount allowable  
25 (or, in the case of a foreign corporation, which

1 would be allowable if such foreign corporation  
2 were a domestic corporation) as a deduction  
3 under this chapter to the qualified corporation  
4 for such taxable year with respect to—

5 “(i) employer contributions under a  
6 stock bonus, pension, profit-sharing, or an-  
7 nuity plan,

8 “(ii) employer-provided coverage  
9 under any accident or health plan for em-  
10 ployees, and

11 “(iii) the cost of life or disability in-  
12 surance provided to employees.

13 Any amount treated as wages under paragraph  
14 (2)(C) shall not be taken into account under  
15 this subparagraph.

16 “(d) POSSESSION.—

17 “(1) IN GENERAL.—The term ‘possession of the  
18 United States’ means American Samoa, the Com-  
19 monwealth of the Northern Mariana Islands, the  
20 Commonwealth of Puerto Rico, Guam, and the Vir-  
21 gin Islands.

22 “(2) MIRROR CODE POSSESSIONS.—In the case  
23 of any possession of the United States with a mirror  
24 code tax system (as defined in section 24(k)), this  
25 section shall not be treated as part of the income tax

1 laws of the United States for purposes of deter-  
2 mining the income tax law of such possession unless  
3 such possession elects to have this section be so  
4 treated.

5 “(e) SEPARATE APPLICATION TO EACH POSSES-  
6 SION.—For purposes of determining the amount of the  
7 credit allowed under this section, this section shall be ap-  
8 plied separately with respect to each possession of the  
9 United States.

10 “(f) TERMINATION.—No credit shall be allowed  
11 under this section for any taxable year beginning after De-  
12 cember 31, 2031.”.

13 (b) CREDIT MADE PART OF GENERAL BUSINESS  
14 CREDIT.—Subsection (b) of section 38, as amended by the  
15 preceding provisions of this Act, is amended by striking  
16 “plus” at the end of paragraph (35), by striking the period  
17 at the end of paragraph (36) and inserting “, plus”, and  
18 by adding at the end the following new paragraph:

19 “(37) the possessions economic activity credit  
20 determined under section 45V.”.

21 (c) CLERICAL AMENDMENT.—The table of sections  
22 for subpart B of part IV of subchapter A of chapter 1  
23 is amended by adding at the end the following:

“Sec. 45V. Possessions Economic Activity Credit.”.

24 (d) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply to taxable years beginning after

1 the date of the enactment of this Act, and in the case  
2 of a qualified corporation that is a foreign corporation,  
3 to taxable years beginning after the date of enactment and  
4 to taxable years of United States shareholders in which  
5 or with which such taxable years of foreign corporations  
6 end.

7 **SEC. 135702. ADDITIONAL NEW MARKETS TAX CREDIT AL-**  
8 **LOCATIONS FOR THE TERRITORIES.**

9 (a) IN GENERAL.—Section 45D(f), as amended by  
10 the preceding provisions of this Act, is amended by adding  
11 at the end the following new paragraph:

12 “(6) ADDITIONAL ALLOCATIONS FOR POSSES-  
13 SIONS OF THE UNITED STATES.—

14 “(A) IN GENERAL.—In the case of each  
15 calendar year after 2021, there is (in addition  
16 to the limitation under paragraph (1)—

17 “(i) a new markets tax credit limita-  
18 tion of \$80,000,000 which shall be allo-  
19 cated by the Secretary as provided in para-  
20 graph (2) except that such limitation may  
21 only be allocated with respect to low-in-  
22 come communities located in Puerto Rico,  
23 and

24 “(ii) a new markets tax credit limita-  
25 tion of \$20,000,000 which shall be allo-

1 cated by the Secretary as provided in para-  
2 graph (2) except that such limitation may  
3 only be allocated with respect to low-in-  
4 come communities located in possessions of  
5 the United States other than Puerto Rico.

6 “(B) CARRYOVER OF UNUSED LIMITA-  
7 TION.—

8 “(i) IN GENERAL.—If the credit limi-  
9 tation under clause (i) or clause (ii) of sub-  
10 paragraph (A) for any calendar year ex-  
11 ceeds the amount of such limitation allo-  
12 cated by the Secretary for such calendar  
13 year, such limitation for the succeeding  
14 calendar year shall be increased by the  
15 amount of such excess.

16 “(ii) LIMITATION ON CARRYOVER.—  
17 No amount of credit limitation may be car-  
18 ried under clause (i) past the 5th calendar  
19 year following the calendar year in which  
20 such amount of credit limitation arose.

21 “(iii) TRANSFER OF EXPIRED POSSES-  
22 SION LIMITATION TO GENERAL LIMITA-  
23 TION.—In the case of any amount of credit  
24 limitation which would (but for clause (ii))  
25 be carried under clause (i) to the 6th cal-



1           **PART 1—RENEWABLE ELECTRICITY AND**  
2                   **REDUCING CARBON EMISSIONS**  
3 **SEC. 136101. EXTENSION AND MODIFICATION OF CREDIT**  
4                   **FOR ELECTRICITY PRODUCED FROM CER-**  
5                   **TAIN RENEWABLE RESOURCES.**

6           (a) IN GENERAL.—The following provisions of sec-  
7 tion 45(d) are each amended by striking “January 1,  
8 2022” each place it appears and inserting “January 1,  
9 2034”:

10                   (1) Paragraph (2)(A).

11                   (2) Paragraph (3)(A).

12                   (3) Paragraph (4)(B).

13                   (4) Paragraph (6).

14                   (5) Paragraph (7).

15                   (6) Paragraph (9).

16                   (7) Paragraph (11)(B).

17           (b) APPLICATION OF EXTENSION TO SOLAR.—Sec-  
18 tion 45(d)(4)(A) is amended by striking “is placed in serv-  
19 ice before January 1, 2006” and inserting “the construc-  
20 tion of which begins before January 1, 2034.”.

21           (c) EXTENSION OF ELECTION TO TREAT QUALIFIED  
22 FACILITIES AS ENERGY PROPERTY.—Section  
23 48(a)(5)(C)(ii) is amended by striking “January 1, 2022”  
24 and inserting “January 1, 2034”.

25           (d) APPLICATION OF EXTENSION TO WIND FACILI-  
26 TIES.—

1           (1) IN GENERAL.—Section 45(d)(1) is amended  
2           by striking “January 1, 2022” and inserting “Janu-  
3           ary 1, 2034”.

4           (2) APPLICATION OF PHASEOUT PERCENT-  
5           AGE.—

6           (A) RENEWABLE ELECTRICITY PRODUC-  
7           TION CREDIT.—Section 45(b)(5)(D) is amended  
8           by inserting “placed in service before January  
9           1, 2022” after “In the case of any facility”.

10          (B) ENERGY CREDIT.—Section  
11          48(a)(5)(E)(iv) is amended by inserting “placed  
12          in service before January 1, 2022” after “In  
13          the case of any facility”.

14          (3) QUALIFIED OFFSHORE WIND FACILITIES  
15          UNDER ENERGY CREDIT.—Section 48(a)(5)(F)(i) is  
16          amended by striking “offshore wind facility—” and  
17          all that follows and inserting the following: “offshore  
18          wind facility, subparagraph (E) shall not apply.”.

19          (e) PERCENTAGE PHASEOUT OF CREDIT.—Section  
20          45(b) is amended by adding at the end the following new  
21          paragraph:

22                 “(6) PERCENTAGE PHASEOUT OF CREDIT.—In  
23                 the case of any facility, the amount of the credit de-  
24                 termined under subsection (a) shall be reduced by—

1           “(A) in the case of any facility the con-  
2           struction of which begins after December 31,  
3           2031 and before January 1, 2033, 20 percent,

4           “(B) in the case of any facility the con-  
5           struction of which begins after December 31,  
6           2032 and before January 1, 2034, 40 percent,  
7           and

8           “(C) in the case of any facility the con-  
9           struction of which begins after December 31,  
10          2033, 100 percent.”.

11          (f) WAGE AND APPRENTICESHIP REQUIREMENTS.—  
12          Section 45(b) is amended by adding at the end the fol-  
13          lowing new paragraphs:

14                 “(7) BASE CREDIT AMOUNT AND INCREASED  
15                 CREDIT AMOUNT FOR QUALIFIED FACILITIES.—

16                 “(A) IN GENERAL.—In the case of any  
17                 qualified facility which does not satisfy the re-  
18                 quirements of subparagraph (B), the amount of  
19                 the credit determined under subsection (a) (de-  
20                 termined after the application of paragraphs (1)  
21                 through (6)) shall be 20 percent of such  
22                 amount (determined without regard to this sen-  
23                 tence).

24                 “(B) INCREASED CREDIT FOR CERTAIN FA-  
25                 CILITIES MEETING PROJECT REQUIREMENTS.—

1           “(i) IN GENERAL.—In the case of any  
2           qualified facility which meets the project  
3           requirements of this subparagraph, sub-  
4           paragraph (A) shall not apply.

5           “(ii) PROJECT REQUIREMENTS.—A  
6           project meets the requirements of this sub-  
7           paragraph if it is one of the following:

8                   “(I) A project with a maximum  
9                   net output of less than 1 megawatt.

10                   “(II) A project which commences  
11                   construction prior to the date of the  
12                   enactment of this paragraph.

13                   “(III) A project which satisfies  
14                   the requirements of paragraphs (8)  
15                   and (9).

16           “(8) PREVAILING WAGE REQUIREMENTS.—

17                   “(A) IN GENERAL.—The requirements de-  
18                   scribed in this subparagraph with respect to  
19                   any qualified facility are that the taxpayer shall  
20                   ensure that any laborers and mechanics em-  
21                   ployed by contractors and subcontractors in—

22                           “(i) the construction of such facility,  
23                           and

24                           “(ii) for the 10-year period beginning  
25                           on the date the facility was originally

1 placed in service, the alteration or repair of  
2 such facility,  
3 shall be paid wages at rates not less than the  
4 prevailing rates for construction, alteration, or  
5 repair of a similar character in the locality as  
6 most recently determined by the Secretary of  
7 Labor, in accordance with subchapter IV of  
8 chapter 31 of title 40, United States Code.

9 “(B) CORRECTION AND PENALTY RELATED  
10 TO FAILURE TO SATISFY WAGE REQUIRE-  
11 MENTS.—

12 “(i) IN GENERAL.—In the case of any  
13 taxpayer which fails to satisfy the require-  
14 ment under subparagraph (A) with respect  
15 to the construction of any qualified facility  
16 or with respect to the alteration or repair  
17 of a facility in any year during the period  
18 described in subparagraph (A)(ii), such  
19 taxpayer shall be deemed to have satisfied  
20 such requirement under such subparagraph  
21 with respect to such facility for any year if,  
22 with respect to any laborer or mechanic  
23 who was paid wages at a rate below the  
24 rate described in such subparagraph for

1                   any period during such year, such tax-  
2                   payer—

3                               “(I) makes payment to such la-  
4                               borer or mechanic in an amount equal  
5                               to the sum of—

6                                       “(aa) an amount equal to  
7                                       the difference between the  
8                                       amount of wages paid to such la-  
9                                       borer or mechanic during such  
10                                      period, and—

11                                      “(AA) the amount of  
12                                      wages required to be paid to  
13                                      such laborer or mechanic  
14                                      pursuant to such subpara-  
15                                      graph during such period,  
16                                      plus

17                                      “(BB) interest on the  
18                                      amount determined under  
19                                      item (aa) at the under-  
20                                      payment rate established  
21                                      under section 6621 for the  
22                                      period described in such  
23                                      item, and

1 “(II) makes payment to the Sec-  
2 retary of a penalty in an amount  
3 equal to the product of—

4 “(aa) \$5,000, multiplied by  
5 “(bb) the total number of la-  
6 borers and mechanics who were  
7 paid wages at a rate below the  
8 rate described in subparagraph  
9 (A) for any period during such  
10 year.

11 “(ii) PENALTY ASSESSED AS TAX.—  
12 The penalty described in clause (i)(II)  
13 shall be treated in the same manner as a  
14 penalty imposed under subchapter B of  
15 chapter 68.

16 “(9) APPRENTICESHIP REQUIREMENTS.—The  
17 requirements described in this subparagraph with re-  
18 spect to the construction of any qualified facility are  
19 as follows:

20 “(A) LABOR HOURS.—

21 “(i) PERCENTAGE OF TOTAL LABOR  
22 HOURS.—All contractors and subcontrac-  
23 tors engaged in the performance of con-  
24 struction, alteration, or repair work on any  
25 project shall, subject to subparagraph (B),

1 ensure that not less than the applicable  
2 percentage of the total labor hours of such  
3 work be performed by qualified appren-  
4 tices.

5 “(ii) APPLICABLE PERCENTAGE.—For  
6 purposes of paragraph (1), the applicable  
7 percentage shall be—

8 “(I) in the case of any applicable  
9 project the construction of which be-  
10 gins before January 1, 2023, 5 per-  
11 cent,

12 “(II) in the case of any applica-  
13 ble project the construction of which  
14 begins after December 31, 2022, and  
15 before January 1, 2024, 10 percent,  
16 and

17 “(III) in the case of any applica-  
18 ble project the construction of which  
19 begins after December 31, 2023, 15  
20 percent.

21 “(B) APPRENTICE TO JOURNEYWORKER  
22 RATIO.—The requirement under subparagraph  
23 (A)(i) shall be subject to any applicable require-  
24 ments for apprentice-to-journeyworker ratios of

1 the Department of Labor or the applicable  
2 State apprenticeship agency.

3 “(C) PARTICIPATION.—Each contractor  
4 and subcontractor who employs 4 or more indi-  
5 viduals to perform construction, alteration, or  
6 repair work on an applicable project shall em-  
7 ploy 1 or more qualified apprentices to perform  
8 such work.

9 “(D) EXCEPTION.—

10 “(i) IN GENERAL.—Notwithstanding  
11 any other provision of this paragraph, this  
12 paragraph shall not apply in the case of a  
13 taxpayer who—

14 “(I) demonstrates a lack of avail-  
15 ability of qualified apprentices in the  
16 geographic area of the construction,  
17 alteration, or repair work, and

18 “(II) makes a good faith effort to  
19 comply with the requirements of this  
20 paragraph, or

21 “(ii) GOOD FAITH EFFORT.—For pur-  
22 poses of clause (i), a taxpayer shall be  
23 deemed to have satisfied the requirements  
24 under such paragraph with respect to an  
25 applicable project if such taxpayer has re-

1 requested qualified apprentices from a reg-  
2 istered apprenticeship program, as defined  
3 in section 3131(e)(3)(B), and such request  
4 has been denied, provided that such denial  
5 is not the result of a refusal by the con-  
6 tractors or subcontractors engaged in the  
7 performance of construction, alteration, or  
8 repair work on such applicable project to  
9 comply with the established standards and  
10 requirements of such apprenticeship pro-  
11 gram.

12 “(E) DEFINITIONS.—For purposes of this  
13 paragraph—

14 “(i) LABOR HOURS.—The term ‘labor  
15 hours’—

16 “(I) means the total number of  
17 hours devoted to the performance of  
18 construction, alteration, or repair  
19 work by employees of the contractor  
20 or subcontractor, and

21 “(II) excludes any hours worked  
22 by—

23 “(aa) foremen,

24 “(bb) superintendents,

25 “(cc) owners, or

1                   “(dd) persons employed in a  
2                   bona fide executive, administra-  
3                   tive, or professional capacity  
4                   (within the meaning of those  
5                   terms in part 541 of title 29,  
6                   Code of Federal Regulations).

7                   “(ii) QUALIFIED APPRENTICE.—The  
8                   term ‘qualified apprentice’ means an indi-  
9                   vidual who is an employee of the con-  
10                  tractor or subcontractor and who is par-  
11                  ticipating in a registered apprenticeship  
12                  program, as defined in section  
13                  3131(e)(3)(B).

14                  “(10) DOMESTIC CONTENT BONUS CREDIT  
15                  AMOUNT.—

16                  “(A) IN GENERAL.—In the case of any  
17                  qualified facility which satisfies the requirement  
18                  under subparagraph (B), the amount of the  
19                  credit determined under subsection (a) (deter-  
20                  mined after the application of paragraphs (1)  
21                  through (9)) shall be increased by an amount  
22                  equal to 10 percent of the amount otherwise in  
23                  effect under such subsection.

24                  “(B) REQUIREMENT.—

1                   “(i) IN GENERAL.—Subject to clause  
2                   (iii), the requirement described in this sub-  
3                   clause with respect to any qualified facility  
4                   is that, prior to the end of the taxable year  
5                   in which such facility is placed in service,  
6                   the taxpayer shall certify to the Secretary  
7                   that, any steel, iron, or manufactured  
8                   product used in the construction of such  
9                   facility was produced in the United States.

10                   “(ii) STEEL AND IRON.—In the case  
11                   of steel or iron, clause (i) shall be applied  
12                   in a manner consistent with section  
13                   661.5(b) of title 49, Code of Federal Regu-  
14                   lations.

15                   “(iii) MANUFACTURED PRODUCT.—  
16                   For purposes of clause (i), a manufactured  
17                   product shall be deemed to have been man-  
18                   ufactured in the United States if not less  
19                   than 55 percent of the total cost of the  
20                   components of such product is attributable  
21                   to components which are mined, produced,  
22                   or manufactured in the United States.

23                   “(C) INTERNATIONAL AGREEMENTS.—This  
24                   paragraph shall be applied in a manner which

1 is consistent with the obligations of the United  
2 States under international agreements.

3 “(11) PENALTY FOR DIRECT PAY.—

4 “(A) IN GENERAL.—In the case of a tax-  
5 payer making an election under section 6417  
6 with respect to a credit under this section, the  
7 amount of such credit shall be replaced with—

8 “(i) the value of such credit (deter-  
9 mined without regard to this paragraph),  
10 multiplied by

11 “(ii) the applicable percentage.

12 “(B) 100 PERCENT APPLICABLE PERCENT-  
13 AGE FOR CERTAIN QUALIFIED FACILITIES.—In  
14 the case of any qualified facility—

15 “(i) which satisfies the requirements  
16 under paragraph (10) with respect to the  
17 construction of such facility, or

18 “(ii) with a maximum net output of  
19 less than 1 megawatt,  
20 the applicable percentage shall be 100 percent.

21 “(C) PHASED DOMESTIC CONTENT RE-  
22 QUIREMENT.—Subject to subparagraph (D), in  
23 the case of any qualified facility which is not  
24 described in subparagraph (B), the applicable  
25 percentage shall be—

1                   “(i) if construction of such facility  
2                   began before January 1, 2024, 100 per-  
3                   cent,

4                   “(ii) if construction of such facility  
5                   began in calendar year 2024, 90 percent,

6                   “(iii) if construction of such facility  
7                   began in calendar year 2025, 85 percent,  
8                   and

9                   “(iv) if construction of such facility  
10                  began after December 31, 2025, 0 percent.

11                 “(D) EXCEPTIONS.—In order to facilitate  
12                 the use of amounts made available in this sec-  
13                 tion, increase the tax incentives for investment  
14                 in clean energy, and grow the domestic supply  
15                 chains, the Secretary shall provide appropriate  
16                 exceptions to the domestic content requirements  
17                 for products under subparagraph (C) for the  
18                 construction of qualified facilities if either the  
19                 inclusion of domestic products increases the  
20                 overall costs of projects by more than 25 per-  
21                 cent or relevant manufactured products are not  
22                 produced in the United States in sufficient and  
23                 reasonably available quantities or of a satisfac-  
24                 tory quality.



1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), in the case of any energy property  
3 described in paragraph (3)(A)(i) the construc-  
4 tion of which begins before January 1, 2034,  
5 the energy percentage determined under para-  
6 graph (2) shall be equal to—

7           “(i) in the case of any property the  
8 construction of which begins after Decem-  
9 ber 31, 2019, and which is placed in serv-  
10 ice before January 1, 2022, 26 percent,

11           “(ii) in the case of any property the  
12 construction of which begins before Janu-  
13 ary 1, 2032, and which is placed in service  
14 after December 31, 2021, 30 percent,

15           “(iii) in the case of any property the  
16 construction of which begins after Decem-  
17 ber 31, 2031 and before January 1, 2033,  
18 26 percent, and

19           “(iv) in the case of any property the  
20 construction of which begins after Decem-  
21 ber 31, 2032 and before January 1, 2034,  
22 22 percent.

23           “(B) PLACED IN SERVICE DEADLINE.—In  
24 the case of any energy property described in  
25 paragraph (3)(A)(i) the construction of which

1 begins before January 1, 2034, and which is  
2 not placed in service before January 1, 2036,  
3 the energy percentage determined under para-  
4 graph (2) shall be equal to 10 percent.

5 “(7) PHASEOUT FOR CERTAIN OTHER ENERGY  
6 PROPERTY.—

7 “(A) IN GENERAL.—Subject to subpara-  
8 graph (B), in the case of any qualified fuel cell  
9 property, qualified small wind property, waste  
10 energy recovery property, or energy property  
11 described in paragraph (3)(A)(ii), the energy  
12 percentage determined under paragraph (2)  
13 shall be equal to—

14 “(i) in the case of any property the  
15 construction of which begins after Decem-  
16 ber 31, 2019, and which is placed in serv-  
17 ice before January 1, 2022, 26 percent,

18 “(ii) in the case of any property the  
19 construction of which begins before Janu-  
20 ary 1, 2032, and which is placed in service  
21 after December 31, 2021, 30 percent,

22 “(iii) in the case of any property the  
23 construction of which begins after Decem-  
24 ber 31, 2031 and before January 1, 2033,  
25 26 percent, and

1                   “(iv) in the case of any property the  
2                   construction of which begins after Decem-  
3                   ber 31, 2032 and before January 1, 2034,  
4                   22 percent.

5                   “(B) PLACED IN SERVICE DEADLINE.—In  
6                   the case of any energy property described in  
7                   subparagraph (A) which is not placed in service  
8                   before January 1, 2036, the energy percentage  
9                   determined under paragraph (2) shall be equal  
10                  to 0 percent.”.

11               (c) 30 PERCENT CREDIT FOR SOLAR AND GEO-  
12               THERMAL.—

13               (1) EXTENSION FOR SOLAR.—Section  
14               48(a)(2)(A)(i)(II) is amended by striking “January  
15               1, 2024” and inserting “January 1, 2034”.

16               (2) APPLICATION TO GEOTHERMAL.—

17               (A) IN GENERAL.—Paragraphs  
18               (2)(A)(i)(II), (6)(A), and (6)(B) of section  
19               48(a) are each amended by striking “paragraph  
20               (3)(A)(i)” and inserting “clause (i), (iii), or  
21               (vii) of paragraph (3)(A)”.

22               (B) CONFORMING AMENDMENT.—The  
23               heading of section 48(a)(6) is amended by in-  
24               serting “AND GEOTHERMAL” after “SOLAR EN-  
25               ERGY”.

1 (d) ENERGY STORAGE TECHNOLOGIES; QUALIFIED  
2 BIOGAS PROPERTY; MICROGRID CONTROLLERS; EXTEN-  
3 SION OF WASTE ENERGY RECOVERY PROPERTY.—

4 (1) IN GENERAL.—Section 48(a)(3)(A) is  
5 amended by striking “or” at the end of clause (vii),  
6 and by adding at the end the following new clauses:

7 “(viii) energy storage technology,

8 “(ix) qualified biogas property, or

9 “(x) microgrid controllers.”

10 (2) APPLICATION OF 30 PERCENT CREDIT.—

11 Section 48(a)(2)(A)(i) is amended by striking “and”  
12 at the end of subclauses (IV) and (V) and adding at  
13 the end the following new subclauses:

14 “(VI) energy storage technology,

15 “(VII) qualified biogas property,

16 and

17 “(VIII) microgrid controllers,

18 and”.

19 (3) APPLICATION OF PHASEOUT.—Section  
20 48(a)(7) is amended by inserting “energy storage  
21 technology, qualified biogas property, microgrid  
22 contollers,” after “waste energy recovery property.”

23 (4) DEFINITIONS.—Section 48(c) is amended  
24 by adding at the end the following new paragraphs:

25 “(6) ENERGY STORAGE TECHNOLOGY.—

1           “(A) IN GENERAL.—The term ‘energy  
2 storage technology’ means equipment (other  
3 than equipment primarily used in the transpor-  
4 tation of goods or individuals and not for the  
5 production of electricity) which uses batteries,  
6 compressed air, pumped hydropower, hydrogen  
7 storage, thermal energy storage, regenerative  
8 fuel cells, flywheels, capacitors, superconducting  
9 magnets, or other technologies identified by the  
10 Secretary, after consultation with the Secretary  
11 of Energy, to store energy for conversion to  
12 electricity (or, in the case of hydrogen storage,  
13 to store energy), and has a capacity of not less  
14 than 5 kilowatt hours.

15           “(B) MODIFICATIONS OF CERTAIN PROP-  
16 erty.—In the case of any equipment which ei-  
17 ther—

18           “(i) would be described in subpara-  
19 graph (A) except that such equipment has  
20 a capacity of less than 5 kilowatt hours is  
21 modified such that such equipment (after  
22 such modification) has a capacity of not  
23 less than 5 kilowatt hours, or

24           “(ii) is described in subparagraph (A)  
25 and which has a capacity of not less than

1           5 kilowatt hours and is modified such that  
2           such equipment (after such modification)  
3           has an increased capacity,  
4           such equipment shall be treated as described in  
5           subparagraph (A) except that the basis of any  
6           property which was part of such equipment be-  
7           fore such modification shall not be taken into  
8           account for purposes of this section. In the case  
9           of any property to which this subparagraph ap-  
10          plies, subparagraph (C) shall be applied by sub-  
11          stituting ‘modification’ for ‘construction’.

12           “(C) TERMINATION.—The term ‘energy  
13          storage technology’ shall not include any prop-  
14          erty the construction of which does not begin  
15          before January 1, 2034.

16          “(7) QUALIFIED BIOGAS PROPERTY.—

17           “(A) IN GENERAL.—The term ‘qualified  
18          biogas property’ means property comprising a  
19          system which—

20           “(i) converts biomass (as defined in  
21          section 45K(c)(3), as in effect on the date  
22          of enactment of this paragraph) into a gas  
23          which—

24           “(I) consists of not less than 52  
25          percent methane, or

1                   “(II) is concentrated by such sys-  
2                   tem into a gas which consists of not  
3                   less than 52 percent methane, and

4                   “(ii) captures such gas for productive  
5                   use.

6                   “(B) INCLUSION OF CLEANING AND CON-  
7                   DITIONING PROPERTY.—The term ‘qualified  
8                   biogas property’ includes any property which is  
9                   part of such system which cleans or conditions  
10                  such gas.

11                  “(C) TERMINATION.—The term ‘qualified  
12                  biogas property’ shall not include any property  
13                  the construction of which does not begin before  
14                  January 1, 2034.

15                  “(8) MICROGRID CONTROLLER.—

16                  “(A) IN GENERAL.—The term ‘microgrid  
17                  controller’ means equipment which is—

18                         “(i) part of a qualified microgrid, and

19                         “(ii) designed and used to monitor  
20                         and control the energy resources and loads  
21                         on such microgrid to maintain acceptable  
22                         frequency, voltage, or economic dispatch.

23                  “(B) QUALIFIED MICROGRID.—The term  
24                  ‘qualified microgrid’ means an electrical system  
25                  which—

1 “(i) includes equipment which is capa-  
2 ble of generating not less than 4 kilowatts  
3 and not greater than 20 megawatts of elec-  
4 tricity,

5 “(ii) is capable of operating—

6 “(I) in connection with the elec-  
7 trical grid and as a single controllable  
8 entity with respect to such grid, and

9 “(II) independently (and discon-  
10 nected) from such grid, and

11 “(iii) is not part of a bulk-power sys-  
12 tem (as defined in section 215 of the Fed-  
13 eral Power Act (16 U.S.C. 24o)).

14 “(C) TERMINATION.—The term ‘microgrid  
15 controller’ shall not include any property the  
16 construction of which does not begin before  
17 January 1, 2034.”.

18 (5) DENIAL OF DOUBLE BENEFIT FOR QUALI-  
19 FIED BIOGAS PROPERTY.—Section 45(e) is amended  
20 by adding at the end the following new paragraph:

21 “(12) COORDINATION WITH ENERGY CREDIT  
22 FOR QUALIFIED BIOGAS PROPERTY.—The term  
23 ‘qualified facility’ shall not include any facility which  
24 produces electricity from gas produced by qualified  
25 biogas property (as defined in section 48(c)(7)) if a

1 credit is determined under section 48 with respect to  
2 such property for the taxable year or any prior tax-  
3 able year.”.

4 (6) EXTENSION OF WASTE ENERGY RECOVERY  
5 PROPERTY.—Section 48(c)(5)(D) is amended by  
6 striking “January 1, 2024” and inserting “January  
7 1, 2034”.

8 (e) FUEL CELLS USING ELECTROMECHANICAL  
9 PROCESSES.—

10 (1) IN GENERAL.—Section 48(e)(1) is amend-  
11 ed—

12 (A) in subparagraph (A)(i)—

13 (i) by inserting “or electromechanical”  
14 after “electrochemical”, and

15 (ii) by inserting “(1 kilowatts in the  
16 case of a fuel cell power plant with a linear  
17 generator assembly)” after “0.5 kilowatt”,  
18 and

19 (B) in subparagraph (C)—

20 (i) by inserting “, or linear generator  
21 assembly,” after “a fuel cell stack assem-  
22 bly”, and

23 (ii) by inserting “or  
24 electromechanical” after “electrochemical”.

1           (2) LINEAR GENERATOR ASSEMBLY LIMITA-  
2           TION.—Section 48(e)(1) is amended by redesignig-  
3           nating subparagraph (D) as subparagraph (E) and  
4           by inserting after subparagraph (C) the following  
5           new subparagraph:

6                   “(D) LINEAR GENERATOR ASSEMBLY.—  
7           The term ‘linear generator assembly’ does not  
8           include any assembly which contains rotating  
9           parts.”.

10          (f) DYNAMIC GLASS.—Section 48(a)(3)(A)(ii) is  
11          amended by inserting “, or electrochromic glass which  
12          uses electricity to change its light transmittance properties  
13          in order to heat or cool a structure,” after “sunlight”.

14          (g) COORDINATION WITH LOW INCOME HOUSING  
15          TAX CREDIT.—Paragraph (3) of section 50(c) of the In-  
16          ternal Revenue Code of 1986 is amended—

17                  (1) by striking “and” at the end of subpara-  
18                  graph (A),

19                  (2) by striking the period at the end of sub-  
20                  paragraph (B) and inserting “, and”, and

21                  (3) by adding at the end the following new sub-  
22                  paragraph:

23                          “(C) paragraph (1) shall not apply for pur-  
24                  poses of determining eligible basis under section  
25                  42.”.

1 (h) WAGE AND APPRENTICESHIP REQUIREMENTS.—  
2 Section 48(a) is amended by adding at the end the fol-  
3 lowing new paragraphs:

4 “(8) BASE CREDIT AMOUNT AND INCREASED  
5 CREDIT AMOUNT FOR ENERGY PROJECTS.—

6 “(A) IN GENERAL.—

7 “(i) RULE.—In the case of any energy  
8 project which does not satisfy the require-  
9 ments of subparagraph (B), the amount of  
10 the credit determined under this subsection  
11 (determined after the application of para-  
12 graphs (1) through (7)) shall be 20 per-  
13 cent of such amount (determined without  
14 regard to this sentence).

15 “(ii) ENERGY PROJECT DEFINED.—  
16 For purposes of this subsection the term  
17 ‘energy project’ means a project consisting  
18 of multiple energy properties that are part  
19 of a single project. The requirements of  
20 this paragraph shall be applied to such  
21 project.

22 “(B) INCREASED CREDIT FOR ENERGY  
23 PROJECTS MEETING PROJECT REQUIRE-  
24 MENTS.—

1           “(i) IN GENERAL.—In the case of any  
2           energy project which meets the project re-  
3           quirements of this subparagraph, subpara-  
4           graph (A) shall not apply.

5           “(ii) PROJECT REQUIREMENTS.—A  
6           project meets the requirements of this sub-  
7           paragraph if it is one of the following:

8                   “(I) A project with a maximum  
9                   net output of less than 1 megawatt.

10                   “(II) A project which commences  
11                   construction prior to the date of the  
12                   enactment of this paragraph.

13                   “(III) A project which satisfies  
14                   the requirements of paragraphs (9)  
15                   and (10).

16           “(9) PREVAILING WAGE REQUIREMENTS.—

17                   “(A) IN GENERAL.—The requirements de-  
18                   scribed in this subparagraph with respect to  
19                   any energy project are that the taxpayer shall  
20                   ensure that any laborers and mechanics em-  
21                   ployed by contractors and subcontractors in—

22                           “(i) the construction of such energy  
23                           project , and

24                           “(ii) for any year during the period  
25                           beginning on the date any energy property

1 of such project is originally placed in serv-  
2 ice, the alteration or repair of such prop-  
3 erty,

4 shall be paid wages at rates not less than the  
5 prevailing rates for construction, alteration, or  
6 repair of a similar character in the locality as  
7 most recently determined by the Secretary of  
8 Labor, in accordance with subchapter IV of  
9 chapter 31 of title 40, United States Code.

10 “(B) CORRECTION AND PENALTY RELATED  
11 TO FAILURE TO SATISFY WAGE REQUIRE-  
12 MENTS.—A taxpayer shall not be treated as  
13 failing to satisfy the requirements of this para-  
14 graph if such taxpayer meets requirements  
15 similar to the requirements of section  
16 45(b)(8)(B).

17 “(10) APPRENTICESHIP REQUIREMENTS.—The  
18 requirements described in this subparagraph with re-  
19 spect to the construction of any applicable facility  
20 are as follows:

21 “(A) LABOR HOURS.—

22 “(i) PERCENTAGE OF TOTAL LABOR  
23 HOURS.—All contractors and subcontractors  
24 engaged in the performance of con-  
25 struction, alteration, or repair work on any

1 applicable facility prior to such facility  
2 being placed into service shall, subject to  
3 subparagraph (B), ensure that not less  
4 than the applicable percentage of the total  
5 labor hours of such work be performed by  
6 qualified apprentices.

7 “(ii) APPLICABLE PERCENTAGE.—For  
8 purposes of paragraph (1), the applicable  
9 percentage shall be—

10 “(I) in the case of any applicable  
11 project the construction of which be-  
12 gins before January 1, 2023, 5 per-  
13 cent,

14 “(II) in the case of any applica-  
15 ble project the construction of which  
16 begins after December 31, 2022, and  
17 before January 1, 2024, 10 percent,  
18 and

19 “(III) in the case of any applica-  
20 ble project the construction of which  
21 begins after December 31, 2023, 15  
22 percent.

23 “(B) APPRENTICE TO JOURNEYWORKER  
24 RATIO.—The requirement under subparagraph  
25 (A)(i) shall be subject to any applicable require-

1           ments for apprentice-to-journeyworker ratios of  
2           the Department of Labor or the applicable  
3           State apprenticeship agency.

4           “(C) PARTICIPATION.—Each contractor  
5           and subcontractor who employs 4 or more indi-  
6           viduals to perform construction, alteration, or  
7           repair work on an applicable project shall em-  
8           ploy 1 or more qualified apprentices to perform  
9           such work.

10          “(D) EXCEPTION.—

11           “(i) IN GENERAL.—Notwithstanding  
12           any other provision of this paragraph, this  
13           paragraph shall not apply in the case of a  
14           taxpayer who—

15           “(I) demonstrates a lack of avail-  
16           ability of qualified apprentices in the  
17           geographic area of the construction,  
18           alteration, or repair work, and

19           “(II) makes a good faith effort to  
20           comply with the requirements of this  
21           paragraph.

22           “(ii) GOOD FAITH EFFORT.—For pur-  
23           poses of clause (i), a taxpayer shall be  
24           deemed to have satisfied the requirements  
25           under such paragraph with respect to an

1 applicable project if such taxpayer has re-  
2 requested qualified apprentices from a reg-  
3 istered apprenticeship program, as defined  
4 in section 3131(e)(3)(B), and such request  
5 has been denied, provided that such denial  
6 is not the result of a refusal by the con-  
7 tractors or subcontractors engaged in the  
8 performance of construction, alteration, or  
9 repair work on such applicable project to  
10 comply with the established standards and  
11 requirements of such apprenticeship pro-  
12 gram.

13 “(E) DEFINITIONS.—For purposes of this  
14 paragraph—

15 “(i) LABOR HOURS.—The term ‘labor  
16 hours’ has the meaning given such term in  
17 section 45(b)(9)(E)(i).

18 “(ii) QUALIFIED APPRENTICE.—The  
19 term ‘qualified apprentice’ has the mean-  
20 ing given such term in section  
21 45(b)(9)(E)(ii).

22 “(11) DOMESTIC CONTENT BONUS CREDIT  
23 AMOUNT.—

24 “(A) IN GENERAL.—In the case of any en-  
25 ergy project which satisfies the requirements

1 under subparagraph (B), the energy percentage  
2 in subsection (a)(2) shall be increased by the  
3 applicable rate in subparagraph (C).

4 “(B) REQUIREMENTS.—

5 “(i) IN GENERAL.—The requirement  
6 described in this subclause with respect to  
7 any energy project is satisfied if the tax-  
8 payer certifies to the Secretary (at such  
9 time, and in such form and manner, as the  
10 Secretary may prescribe) that the facility  
11 is composed of steel, iron, or manufactured  
12 products which were produced in the  
13 United States.

14 “(ii) STEEL AND IRON.—In the case  
15 of steel or iron, clause (i) shall be applied  
16 in a manner consistent with section  
17 661.5(b) of title 49, Code of Federal Regu-  
18 lations.

19 “(iii) MANUFACTURED PRODUCT.—  
20 For purposes of clause (i), a manufactured  
21 product shall be deemed to have been man-  
22 ufactured in the United States if not less  
23 than 55 percent of the total cost of the  
24 components of such product is attributable

1 to components which are mined, produced,  
2 or manufactured in the United States.

3 “(C) APPLICABLE RATE INCREASE.—For  
4 purposes of subparagraph (A), the applicable  
5 credit rate increase shall be an amount equal  
6 to—

7 “(i) in the case of energy project that  
8 does not meet the requirements of sub-  
9 clause (I) or (III) of paragraph (8)(B)(ii),  
10 2 percentage points, and

11 “(ii) in the case of energy property  
12 that meets the requirements of subclause  
13 (I) or (III) of paragraph (8)(B)(ii), 10 per-  
14 centage points.

15 “(D) INTERNATIONAL AGREEMENTS.—  
16 This paragraph shall be applied in a manner  
17 which is consistent with the obligations of the  
18 United States under international agreements.

19 “(12) PENALTY FOR DIRECT PAY.—

20 “(A) IN GENERAL.—In the case of a tax-  
21 payer making an election under section 6417  
22 with respect to a credit under this section, the  
23 amount of such credit shall be replaced with—

1                   “(i) the value of such credit (deter-  
2                   mined without regard to this paragraph),  
3                   multiplied by

4                   “(ii) the applicable percentage.

5                   “(B) 100 PERCENT APPLICABLE PERCENT-  
6                   AGE FOR CERTAIN ENERGY PROJECTS.—In the  
7                   case of any energy project—

8                   “(i) which satisfies the requirements  
9                   under paragraph (11) with respect to the  
10                  construction of such project, or

11                  “(ii) with a maximum net output of  
12                  less than 1 megawatt

13                  the applicable percentage shall be 100 percent.

14                  “(C) PHASED DOMESTIC CONTENT RE-  
15                  QUIREMENT.—Subject to subparagraph (D), in  
16                  the case of any energy project which is not de-  
17                  scribed in subparagraph (B), the applicable per-  
18                  centage shall be—

19                  “(i) if construction of such project  
20                  began before January 1, 2024, 100 per-  
21                  cent,

22                  “(ii) if construction of such project  
23                  began in calendar year 2024, 90 percent,

1           “(iii) if construction of such project  
2           began in calendar year 2025, 85 percent,  
3           and

4           “(iv) if construction of such project  
5           began after December 31, 2025, 0 percent.

6           “(D) EXCEPTIONS.—In order to facilitate  
7           the use of amounts made available in this sec-  
8           tion, increase the tax incentives for investment  
9           in clean energy, and grow the domestic supply  
10          chains, the Secretary shall provide appropriate  
11          exceptions to the domestic content requirements  
12          for products under subparagraph (C) for the  
13          construction of qualified facilities if either the  
14          inclusion of domestic products increases the  
15          overall costs of projects by more than 25 per-  
16          cent or relevant manufactured products are not  
17          produced in the United States in sufficient and  
18          reasonably available quantities or of a satisfac-  
19          tory quality.

20          “(13) REGULATIONS AND GUIDANCE.—The  
21          Secretary shall issue such regulations or other guid-  
22          ance as the Secretary determines necessary or ap-  
23          propriate to carry out the purposes of this sub-  
24          section.”.

25          (i) EFFECTIVE DATES.—

1           (1) The amendments made by subsections (a),  
2           (b), (c), (e), (f), (g), and (h) of this section shall  
3           apply to property placed in service after December  
4           31, 2021.

5           (2) The amendment made by subsection (d)  
6           shall apply to periods after December 31, 2021,  
7           under rules similar to the rules of section 48(m) of  
8           the Internal Revenue Code of 1986 (as in effect on  
9           the day before the date of the enactment of the Rev-  
10          enue Reconciliation Act of 1990).

11 **SEC. 136103. INCREASE IN ENERGY CREDIT FOR SOLAR FA-**  
12 **CILITIES PLACED IN SERVICE IN CONNec-**  
13 **tion WITH LOW-INCOME COMMUNITIES.**

14           (a) IN GENERAL.—Section 48 is amended by adding  
15           at the end the following new subsection:

16           “(e) SPECIAL RULES FOR CERTAIN SOLAR FACILI-  
17           TIES PLACED IN SERVICE IN CONNECTION WITH LOW-  
18           INCOME COMMUNITIES.—

19           “(1) IN GENERAL.—In the case of any qualified  
20           solar facility with respect to which the Secretary,  
21           after consultation with the Secretary of Energy and  
22           the Administrator of the Environmental Protection  
23           Agency, makes an allocation of environmental justice  
24           solar capacity limitation under paragraph (4)—

1           “(A) equipment described in paragraph  
2           (3)(B) shall be treated for purposes of this sec-  
3           tion as energy property described in subsection  
4           (a)(2)(A)(i),

5           “(B) the energy percentage otherwise de-  
6           termined under subsection (a)(2) with respect  
7           to any eligible property which is part of such  
8           facility shall be increased by—

9                   “(i) in the case of a facility described  
10                   in subclause (I) of paragraph (2)(A)(iii)  
11                   and not described in subclause (II) of such  
12                   paragraph, 10 percentage points, and

13                   “(ii) in the case of a facility described  
14                   in subclause (II) of paragraph (2)(A)(iii),  
15                   20 percentage points, and

16           “(C) the increase in the credit determined  
17           under subsection (a) by reason of this sub-  
18           section for any taxable year with respect to all  
19           property which is part of such facility shall not  
20           exceed the amount which bears the same ratio  
21           to the amount of such increase (determined  
22           without regard to this subparagraph) as—

23                   “(i) the environmental justice solar  
24                   capacity limitation allocated to such facil-  
25                   ity, bears to

1                   “(ii) the total megawatt nameplate ca-  
2                   pacity of such facility, as measured in di-  
3                   rect current.

4                   “(2) QUALIFIED SOLAR FACILITY.—For pur-  
5                   poses of this subsection—

6                   “(A) IN GENERAL.—The term ‘qualified  
7                   solar facility’ means any facility—

8                   “(i) which generates electricity solely  
9                   from property described in subsection  
10                  (a)(3)(A)(i),

11                  “(ii) which has a nameplate capacity  
12                  of 5 megawatts or less, and

13                  “(iii) which—

14                         “(I) is located in a low-income  
15                         community (as defined in section  
16                         45D(e)), or

17                         “(II) is part of a qualified low-in-  
18                         come residential building project or a  
19                         qualified low-income economic benefit  
20                         project.

21                   “(B) QUALIFIED LOW-INCOME RESIDEN-  
22                   TIAL BUILDING PROJECT.—A facility shall be  
23                   treated as part of a qualified low-income resi-  
24                   dential building project if—

1           “(i) such facility is installed on a resi-  
2           dential rental building which participates  
3           in a covered housing program (as defined  
4           in section 41411(a) of the Violence Against  
5           Women Act of 1994 (34 U.S.C.  
6           12491(a)(3)), a Housing Development  
7           Fund Corporation cooperative under Arti-  
8           cle XI of the New York State Private  
9           Housing Finance Law, a housing assist-  
10          ance program administered by the Depart-  
11          ment of Agriculture under title V of the  
12          Housing Act of 1949, or such other afford-  
13          able housing programs as the Secretary  
14          may provide, and

15           “(ii) the financial benefits of the elec-  
16          tricity produced by such facility are allo-  
17          cated equitably among the occupants of the  
18          dwelling units of such building.

19           “(C) QUALIFIED LOW-INCOME ECONOMIC  
20          BENEFIT PROJECT.—A facility shall be treated  
21          as part of a qualified low-income economic ben-  
22          efit project if at least 50 percent of the finan-  
23          cial benefits of the electricity produced by such  
24          facility are provided to households with income  
25          of—

1                   “(i) less than 200 percent of the pov-  
2                   erty line applicable to a family of the size  
3                   involved, or

4                   “(ii) less than 80 percent of area me-  
5                   dian gross income (as determined under  
6                   section 142(d)(2)(B)).

7                   “(D) FINANCIAL BENEFIT.—For purposes  
8                   of subparagraphs (B) and (C), electricity ac-  
9                   quired at a below-market rate shall not fail to  
10                  be taken into account as a financial benefit.

11                  “(3) ELIGIBLE PROPERTY.—

12                  “(A) IN GENERAL.—For purposes of this  
13                  section, the term ‘eligible property’ means—

14                         “(i) energy property which is de-  
15                         scribed in subsection (a)(3)(A)(i), includ-  
16                         ing energy storage property (described in  
17                         subsection (a)(3)(A)(viii)) installed in con-  
18                         nection with such energy property, and

19                         “(ii) the amount of any expenditures  
20                         which are paid or incurred by the taxpayer  
21                         for qualified interconnection property in-  
22                         stalled in connection with the installation  
23                         of property described in subparagraph (A)  
24                         to provide for the transmission or distribu-  
25                         tion of the electricity produced or stored by

1           such property, and which are properly  
2           chargeable to the capital account of the  
3           taxpayer.

4           “(B) DEFINITIONS.—For purposes of sub-  
5           paragraph (A)—

6                   “(i) QUALIFIED INTERCONNECTION  
7                   PROPERTY.—The term ‘qualified inter-  
8                   connection property’ means, with respect  
9                   to a qualified facility which is not a  
10                  microgrid, any tangible property—

11                           “(I) which is part of an addition,  
12                           modification, or upgrade to a trans-  
13                           mission or distribution system which  
14                           is required at or beyond the point at  
15                           which the qualified facility intercon-  
16                           nects to such transmission or distribu-  
17                           tion system in order to accommodate  
18                           such interconnection,

19                           “(II) either—

20                                   “(aa) which is constructed,  
21                                   reconstructed, or erected by the  
22                                   taxpayer, or

23                                   “(bb) for which the cost  
24                                   with respect to the construction,  
25                                   reconstruction, or erection of

1 such property is paid or incurred  
2 by such taxpayer, and

3 “(III) the original use of which,  
4 pursuant to an interconnection agree-  
5 ment, commences with the utility.

6 “(ii) INTERCONNECTION AGREE-  
7 MENT.—The term ‘interconnection agree-  
8 ment’ means an agreement with a utility  
9 for the purposes of interconnecting the  
10 qualified facility owned by such taxpayer to  
11 the transmission or distribution system of  
12 such utility.

13 “(iii) UTILITY.—The term ‘utility’  
14 means the owner or operator of an elec-  
15 trical transmission or distribution system  
16 which is subject to the regulatory authority  
17 of—

18 “(I) the Federal Energy Regu-  
19 latory Commission, or

20 “(II) a State or political subdivi-  
21 sion thereof, any agency or instrumen-  
22 tality of the United States, a public  
23 service or public utility commission or  
24 other similar body of any State or po-  
25 litical subdivision thereof, or the gov-

1                   erning or ratemaking body of an elec-  
2                   tric cooperative.

3                   “(C) SPECIAL RULE FOR INTERCONNEC-  
4                   TION PROPERTY.—In the case of expenses paid  
5                   or incurred for interconnection property,  
6                   amounts otherwise chargeable to capital ac-  
7                   count with respect to such expenses shall be re-  
8                   duced under rules similar to the rules of section  
9                   50(c).

10                  “(4) ALLOCATIONS.—

11                   “(A) IN GENERAL.—Not later than 180  
12                   days after the date of enactment of this sub-  
13                   section, the Secretary shall establish a program  
14                   to allocate amounts of environmental justice  
15                   solar capacity limitation to qualified solar facili-  
16                   ties.

17                   “(B) LIMITATION.—The amount of envi-  
18                   ronmental justice solar capacity limitation allo-  
19                   cated by the Secretary under subparagraph (A)  
20                   during any calendar year shall not exceed the  
21                   annual capacity limitation with respect to such  
22                   year.

23                   “(C) ANNUAL CAPACITY LIMITATION.—For  
24                   purposes of this paragraph, the term ‘annual  
25                   capacity limitation’ means 1.8 gigawatts of di-

1           rect current capacity for each of calendar years  
2           2022 through 2031, and zero thereafter.

3           “(D) CARRYOVER OF UNUSED LIMITA-  
4           TION.—If the annual capacity limitation for any  
5           calendar year exceeds the aggregate amount al-  
6           located for such year under this paragraph,  
7           such limitation for the succeeding calendar year  
8           shall be increased by the amount of such excess.  
9           No amount may be carried under the preceding  
10          sentence to any calendar year after 2033.

11          “(E) PLACED IN SERVICE DEADLINE.—

12           “(i) IN GENERAL.—Paragraph (1)  
13           shall not apply with respect to any prop-  
14           erty which is placed in service after the  
15           date that is 4 years after the date of the  
16           allocation with respect to the facility of  
17           which such property is a part.

18           “(ii) APPLICATION OF CARRYOVER.—  
19           Any amount of environmental justice solar  
20           capacity limitation which expires under  
21           clause (i) during any calendar year shall be  
22           taken into account as an excess described  
23           in subparagraph (D) (or as an increase in  
24           such excess) for such calendar year, sub-

1           ject to the limitation imposed by the last  
2           sentence of such subparagraph.

3           “(F) SELECTION CRITERIA.—In deter-  
4           mining to which qualified solar facilities to allo-  
5           cate environmental justice solar capacity limita-  
6           tion under this paragraph, the Secretary shall  
7           take into consideration which facilities will re-  
8           sult in—

9                   “(i) the greatest health and economic  
10                  benefits, including the ability to withstand  
11                  extreme weather events, for individuals de-  
12                  scribed in section 45D(e)(2),

13                   “(ii) the greatest employment and  
14                  wages for such individuals, and

15                   “(iii) the greatest engagement with,  
16                  outreach to, or ownership by, such individ-  
17                  uals, including through partnerships with  
18                  local governments and community-based  
19                  organizations.

20           “(G) DISCLOSURE OF ALLOCATIONS.—The  
21           Secretary shall, upon making an allocation of  
22           environmental justice solar capacity limitation  
23           under this paragraph, publicly disclose the iden-  
24           tity of the applicant, the amount of the environ-  
25           mental justice solar capacity limitation allocated

1 to such applicant, and the location of the facil-  
2 ity for which such allocation is made.

3 “(5) RECAPTURE.—The Secretary shall, by reg-  
4 ulations or other guidance, provide for recapturing  
5 the benefit of any increase in the credit allowed  
6 under subsection (a) by reason of this subsection  
7 with respect to any property which ceases to be  
8 property eligible for such increase (but which does  
9 not cease to be investment credit property within the  
10 meaning of section 50(a)). The period and percent-  
11 age of such recapture shall be determined under  
12 rules similar to the rules of section 50(a). To the ex-  
13 tent provided by the Secretary, such recapture may  
14 not apply with respect to any property if, within 12  
15 months after the date the taxpayer becomes aware  
16 (or reasonably should have become aware) of such  
17 property ceasing to be property eligible for such in-  
18 crease, the eligibility of such property for such in-  
19 crease is restored. The preceding sentence shall not  
20 apply more than once with respect to any facility.”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to periods after December 31,  
23 2021, under rules similar to the rules of section 48(m)  
24 of the Internal Revenue Code of 1986 (as in effect on the

1 day before the date of the enactment of the Revenue Rec-  
2 onciliation Act of 1990).

3 **SEC. 136104. ELECTIVE PAYMENT FOR ENERGY PROPERTY**  
4 **AND ELECTRICITY PRODUCED FROM CER-**  
5 **TAIN RENEWABLE RESOURCES, ETC.**

6 (a) IN GENERAL.—Subchapter B of chapter 65 is  
7 amended by inserting after section 6416 the following new  
8 section:

9 **“SEC. 6417. ELECTIVE PAYMENT OF APPLICABLE CREDITS.**

10 “(a) IN GENERAL.—In the case of a taxpayer making  
11 an election (at such time and in such manner as the Sec-  
12 retary may provide) under this section with respect to any  
13 applicable credit determined with respect to such taxpayer,  
14 such taxpayer shall be treated as making a payment  
15 against the tax imposed by subtitle A (for the taxable year  
16 with respect to which such credit was determined) equal  
17 to the amount of such credit.

18 “(b) APPLICABLE CREDIT.—The term ‘applicable  
19 credit’ means each of the following:

20 “(1) The renewable electricity production credit  
21 determined under section 45.

22 “(2) The energy credit determined under sec-  
23 tion 48.

24 “(3) The credit for carbon oxide sequestration  
25 determined under section 45Q.

1           “(4) The credit for alternative fuel vehicle re-  
2           fueling property allowed under section 30C.

3           “(5) The qualifying advanced energy project  
4           credit determined under section 48C.

5           “(c) SPECIAL RULES.—For purposes of this sec-  
6           tion—

7           “(1) APPLICATION TO TAX-EXEMPT AND GOV-  
8           ERNMENTAL ENTITIES.—In the case of any organi-  
9           zation exempt from the tax imposed by subtitle A,  
10          any State or local government (or political subdivi-  
11          sion thereof), or any Indian tribal government (with-  
12          in the meaning of section 139E), which makes the  
13          election described in subsection (a), any applicable  
14          credit shall be determined—

15                 “(A) without regard to paragraphs (3) and  
16                 (4)(A)(i) of section 50(b), and

17                 “(B) by treating any property with respect  
18                 to which such credit is determined as used in  
19                 a trade or business of the taxpayer.

20           “(2) APPLICATION TO PARTNERSHIPS AND S  
21           CORPORATIONS.—

22                 “(A) IN GENERAL.—In the case of any ap-  
23                 plicable credit determined with respect to any  
24                 qualified resources, qualified facility, or energy  
25                 property held directly by a partnership or S

1 corporation, if such partnership or S corpora-  
2 tion makes an election under this subsection (in  
3 such manner as the Secretary may provide)  
4 with respect to such credit—

5 “(i) the Secretary shall make a pay-  
6 ment to such partnership or S corporation  
7 equal to the amount of such credit,

8 “(ii) subsection (d) shall be applied  
9 with respect to such credit before deter-  
10 mining any partner’s distributive share, or  
11 shareholder’s pro rata share, of such cred-  
12 it,

13 “(iii) any amount with respect to  
14 which the election in subsection (a) is  
15 made excluded from gross income by rea-  
16 son of paragraph (4) shall be treated as  
17 tax exempt income for purposes of sections  
18 705 and 1366, and

19 “(iv) a partner’s distributive share of  
20 such tax exempt income shall be based on  
21 such partner’s distributive share of the  
22 otherwise applicable credit for each taxable  
23 year.

24 “(B) COORDINATION WITH APPLICATION  
25 AT PARTNER OR SHAREHOLDER LEVEL.—In the

1 case of any partnership or S corporation, sub-  
2 section (a) shall be applied at the partner or  
3 shareholder level after application of paragraph  
4 (2)(A)(ii).

5 “(3) IRREVOCABLE ELECTION.—Any election  
6 under this subsection shall be made not later than  
7 the due date (including extensions of time) for the  
8 return of tax for the taxable year for which the ap-  
9 plicable credit is determined, but in no event earlier  
10 than 180 days after the date of the enactment of  
11 this section. Any such election, once made, shall be  
12 irrevocable.

13 “(4) TIMING.—The payment described in sub-  
14 section (a) shall be treated as made on—

15 “(A) in the case of any government, or po-  
16 litical subdivision, described in paragraph (1)  
17 and for which no return is required under sec-  
18 tion 6011 or 6033(a), the later of the date that  
19 a return would be due under section 6033(a) if  
20 such government or subdivision were described  
21 in that section or the date on which such gov-  
22 ernment or subdivision submits a claim for  
23 credit or refund (at such time and in such man-  
24 ner as the Secretary shall provide), and

1           “(B) in any other case, the later of the due  
2           date of the return of tax for the taxable year  
3           or the date on which such return is filed.

4           “(5) TREATMENT OF PAYMENTS TO PARTNER-  
5           SHIPS AND S CORPORATIONS.—For purposes of sec-  
6           tion 1324 of title 31, United States Code, the pay-  
7           ments under subparagraph (A)(ii) of paragraph (2)  
8           shall be treated in the same manner as a refund due  
9           from a credit provision referred to in subparagraph  
10          (B) of such paragraph.

11          “(6) ADDITIONAL INFORMATION.—As a condi-  
12          tion of, and prior to, a payment under this section,  
13          the Secretary may require such information or reg-  
14          istration as the Secretary deems necessary or appro-  
15          priate for purposes of preventing duplication, fraud,  
16          improper payments, or excessive payments under  
17          this section.

18          “(7) EXCESSIVE PAYMENT.—

19                 “(A) IN GENERAL.—In the case of a pay-  
20                 ment made to a taxpayer under this subsection  
21                 or any amount treated as a payment which is  
22                 made by the taxpayer under subsection (a)  
23                 which the Secretary determines constitutes an  
24                 excessive payment, the tax imposed on such tax-  
25                 payer by chapter 1 for the taxable year in

1           which such determination is made shall be in-  
2           creased by an amount equal to the sum of—

3                   “(i) the amount of such excessive pay-  
4                   ment, plus

5                   “(ii) an amount equal to 20 percent of  
6                   such excessive payment.

7                   “(B) REASONABLE CAUSE.—Subparagraph  
8                   (A)(ii) shall not apply if the taxpayer dem-  
9                   onstrates to the satisfaction of the Secretary  
10                  that the excessive payment resulted from rea-  
11                  sonable cause.

12                  “(C) EXCESSIVE PAYMENT DEFINED.—For  
13                  purposes of this paragraph, the term ‘excessive  
14                  payment’ means, with respect to a facility for  
15                  which an election is made under this section for  
16                  any taxable year, an amount equal to the excess  
17                  of—

18                       “(i) the amount of the payment made  
19                       to the taxpayer under this subsection with  
20                       respect to such facility for such taxable  
21                       year, over

22                       “(ii) the amount of the credit which,  
23                       without application of this subsection,  
24                       would be otherwise allowable under this

1 section with respect to such facility for  
2 such taxable year.

3 “(d) DENIAL OF DOUBLE BENEFIT.—In the case of  
4 a taxpayer making an election under this section with re-  
5 spect to an applicable credit, such credit shall be reduced  
6 to zero and such taxpayer shall be deemed to have taken  
7 such credit.

8 “(e) MIRROR CODE POSSESSIONS.—In the case of  
9 any possession of the United States with a mirror code  
10 tax system (as defined in section 24(k)), this section shall  
11 not be treated as part of the income tax laws of the United  
12 States for purposes of determining the income tax law of  
13 such possession unless such possession elects to have this  
14 section be so treated.

15 “(f) BASIS REDUCTION AND RECAPTURE.—Rules  
16 similar to the rules of subsections (a) and (c) of section  
17 50 shall apply for purposes of this section.

18 “(g) REGULATIONS.—The Secretary shall issue such  
19 regulations or other guidance as may be necessary or ap-  
20 propriate to carry out the purposes of this section, includ-  
21 ing—

22 “(1) regulations or other guidance providing  
23 rules for determining a partner’s distributive share  
24 of the tax exempt income described in subsection  
25 (c)(2)(A)(iii), and

1           “(2) guidance to ensure that the amount of the  
2           payment or deemed payment made under this sec-  
3           tion is commensurate with the amount of the credit  
4           that would be otherwise allowable.”.

5           (b) CLERICAL AMENDMENT.—The table of sections  
6           for subchapter B of chapter 65 is amended by inserting  
7           after the item relating to section 6416 the following new  
8           item:

          “Sec. 6417. Elective payment of applicable credits.”.

9           (c) IN GENERAL.—The amendments made by this  
10          section shall apply to property placed in service after the  
11          December 31, 2021.

12       **SEC. 136105. INVESTMENT CREDIT FOR ELECTRIC TRANS-**  
13                               **MISSION PROPERTY.**

14          (a) IN GENERAL.—Subpart E of part IV of sub-  
15          chapter A of chapter 1 is amended by inserting after sec-  
16          tion 48C the following new section:

17       **“SEC. 48D. QUALIFYING ELECTRIC TRANSMISSION PROP-**  
18                               **ERTY.**

19          “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
20          tion 46, the qualifying electric transmission property cred-  
21          it for any taxable year is an amount equal to 30 percent  
22          of the basis of qualifying electric transmission property  
23          placed in service by the taxpayer during such taxable year.

24          “(b) QUALIFYING ELECTRIC TRANSMISSION PROP-  
25          ERTY.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘qualifying elec-  
2       tric transmission property’ means tangible prop-  
3       erty—

4           “(A) which is a qualifying electric trans-  
5       mission line or related transmission property,

6           “(B)(i) the construction, reconstruction, or  
7       erection of which is completed by the taxpayer,  
8       or

9           “(ii) which is acquired by the taxpayer if  
10      the original use of such property commences  
11      with the taxpayer, and

12          “(C) with respect to which depreciation (or  
13      amortization in lieu of depreciation) is allow-  
14      able.

15          “(2) QUALIFYING ELECTRIC TRANSMISSION  
16      LINE.—The term ‘qualifying electric transmission  
17      line’ means an electric transmission line which—

18          “(A) is capable of transmitting electricity  
19      at a voltage of not less than 275 kilovolts, and

20          “(B) has a transmission capacity of not  
21      less than 500 megawatts.

22          “(3) RELATED TRANSMISSION PROPERTY.—

23          “(A) IN GENERAL.—The term ‘related  
24      transmission property’ means, with respect to

1 any electric transmission line, any property  
2 which—

3 “(i) is listed as ‘transmission plant’ in  
4 the Uniform System of Accounts for the  
5 Federal Energy Regulatory Commission  
6 under part 101 of subchapter C of chapter  
7 I of title 18, Code of Federal Regulations,  
8 and

9 “(ii) is necessary for the operation of  
10 such electric transmission line.

11 “(B) CREDIT NOT ALLOWED SEPARATELY  
12 WITH RESPECT TO RELATED PROPERTY.—No  
13 credit shall be allowed to any taxpayer under  
14 this section with respect to any related trans-  
15 mission property unless such taxpayer is al-  
16 lowed a credit under this section with respect to  
17 the qualifying electric transmission line to  
18 which such related transmission property re-  
19 lates.

20 “(c) APPLICATION TO REPLACEMENT AND UP-  
21 GRADED SYSTEMS.—

22 “(1) IN GENERAL.—In the case of any quali-  
23 fying electric transmission line (determined without  
24 regard to this subsection) which replaces any exist-  
25 ing electric transmission line—

1           “(A) the 500 megawatts referred to in sub-  
2           section (b)(2)(B) shall be increased by the  
3           transmission capacity of such existing electric  
4           transmission line, and

5           “(B) in no event shall the basis of such ex-  
6           isting electric transmission line (or related  
7           transmission property with respect to such ex-  
8           isting electric transmission line) be taken into  
9           account in determining the credit allowed under  
10          this section.

11          “(2) UPGRADES TREATED AS REPLACE-  
12          MENTS.—For purposes of this subsection, any up-  
13          grade of an existing electric transmission line shall  
14          be treated as a replacement of such line.

15          “(d) EXCEPTION FOR CERTAIN PROPERTY AND  
16          PROJECTS ALREADY IN PROCESS.—No credit shall be al-  
17          lowed under this section with respect to—

18                 “(1) any property if a State or political subdivi-  
19                 sion thereof, any agency or instrumentality of the  
20                 United States, a public service or public utility com-  
21                 mission or other similar body of any State or polit-  
22                 ical subdivision thereof, or the governing or rate-  
23                 making body of an electric cooperative has, before  
24                 the date of the enactment of this section, selected  
25                 for cost allocation such property for cost recovery, or

1 “(2) any property if—

2 “(A) construction of such property begins  
3 before January 1, 2022, or

4 “(B) construction of any portion of the  
5 qualifying electric transmission line to which  
6 such property relates begins before such date.

7 “(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES  
8 RULES MADE APPLICABLE.—Rules similar to the rules of  
9 subsections (c)(4) and (d) of section 46 (as in effect on  
10 the day before the enactment of the Revenue Reconcili-  
11 ation Act of 1990) shall apply for purposes of this section.

12 “(f) CREDIT ADJUSTMENTS; WAGE AND APPREN-  
13 TICESHIP REQUIREMENTS.—

14 “(1) BASE CREDIT AMOUNT AND INCREASED  
15 CREDIT AMOUNT FOR APPLICABLE FACILITIES.—

16 “(A) IN GENERAL.—

17 “(i) RULE.—In the case of any appli-  
18 cable facility which does not satisfy the re-  
19 quirements of subparagraph (B), the  
20 amount of the credit determined under this  
21 subsection shall be 20 percent of such  
22 amount (determined without regard to this  
23 sentence).

24 “(ii) APPLICABLE FACILITY DE-  
25 FINED.—For purposes of this subsection,

1 the term ‘applicable facility’ means a quali-  
2 fying electric transmission line and related  
3 transmission property to which such quali-  
4 fying electric transmission line relates.

5 “(B) INCREASED CREDIT FOR APPLICABLE  
6 FACILITY MEETING PROJECT REQUIREMENTS.—

7 “(i) IN GENERAL.—In the case of any  
8 applicable facility which meets the project  
9 requirements of this subparagraph, sub-  
10 paragraph (A) shall not apply.

11 “(ii) PROJECT REQUIREMENTS.—A  
12 project meets the requirements of this sub-  
13 paragraph if it is one of the following:

14 “(I) A project with a maximum  
15 net output of less than 1 megawatt.

16 “(II) A project which commences  
17 construction prior to the date of the  
18 enactment of this paragraph.

19 “(III) A project which satisfies  
20 the requirements of paragraphs (2)  
21 and (3).

22 “(2) PREVAILING WAGE REQUIREMENTS.—

23 “(A) IN GENERAL.—The requirements de-  
24 scribed in this subparagraph with respect to  
25 any applicable facility are that the taxpayer

1 shall ensure that any laborers and mechanics  
2 employed by contractors and subcontractors  
3 in—

4 “(i) the construction of such facility,  
5 and

6 “(ii) for any year during the 5-year  
7 period beginning on the date the facility or  
8 property is originally placed in service, the  
9 alteration or repair of such facility or prop-  
10 erty,

11 shall be paid wages at rates not less than the  
12 prevailing rates for construction, alteration, or  
13 repair of a similar character in the locality as  
14 most recently determined by the Secretary of  
15 Labor, in accordance with subchapter IV of  
16 chapter 31 of title 40, United States Code.

17 “(B) CORRECTION AND PENALTY RELATED  
18 TO FAILURE TO SATISFY WAGE REQUIRE-  
19 MENTS.—A taxpayer shall not be treated as  
20 failing to satisfy the requirements of this para-  
21 graph if such taxpayer meets requirements  
22 similar to the requirements of section  
23 45(b)(8)(B).

24 “(3) APPRENTICESHIP REQUIREMENTS.—The  
25 requirements described in this subparagraph with re-

1       spect to the construction of any applicable facility  
2       are as follows:

3               “(A) LABOR HOURS.—

4                       “(i) PERCENTAGE OF TOTAL LABOR  
5                       HOURS.—All contractors and subcontractors  
6                       engaged in the performance of construction,  
7                       alteration, or repair work on any applicable  
8                       facility prior to such facility being placed into  
9                       service shall, subject to subparagraph (B), ensure  
10                      that not less than the applicable percentage of the  
11                      total labor hours of such work be performed by  
12                      qualified apprentices.  
13

14                      “(ii) APPLICABLE PERCENTAGE.—For  
15                      purposes of paragraph (1), the applicable  
16                      percentage shall be—

17                               “(I) in the case of any applicable  
18                               project the construction of which begins  
19                               before January 1, 2023, 5 percent,  
20                               cent,

21                               “(II) in the case of any applicable  
22                               project the construction of which begins  
23                               after December 31, 2022, and  
24                               before January 1, 2024, 10 percent,  
25                               and

1                   “(III) in the case of any applica-  
2                   ble project the construction of which  
3                   begins after December 31, 2023, 15  
4                   percent.

5                   “(B) APPRENTICE TO JOURNEYWORKER  
6                   RATIO.—The requirement under subparagraph  
7                   (A)(i) shall be subject to any applicable require-  
8                   ments for apprentice-to-journeyworker ratios of  
9                   the Department of Labor or the applicable  
10                  State apprenticeship agency.

11                  “(C) PARTICIPATION.—Each contractor  
12                  and subcontractor who employs 4 or more indi-  
13                  viduals to perform construction, alteration, or  
14                  repair work on an applicable project shall em-  
15                  ploy 1 or more qualified apprentices to perform  
16                  such work.

17                  “(D) EXCEPTION.—

18                         “(i) IN GENERAL.—Notwithstanding  
19                         any other provision of this paragraph, this  
20                         paragraph shall not apply in the case of a  
21                         taxpayer who—

22                                 “(I) demonstrates a lack of avail-  
23                                 ability of qualified apprentices in the  
24                                 geographic area of the construction,  
25                                 alteration, or repair work, and

1                   “(II) makes a good faith effort to  
2                   comply with the requirements of this  
3                   paragraph.

4                   “(ii) GOOD FAITH EFFORT.—For pur-  
5                   poses of clause (i), a taxpayer shall be  
6                   deemed to have satisfied the requirements  
7                   under such paragraph with respect to an  
8                   applicable project if such taxpayer has re-  
9                   quested qualified apprentices from a reg-  
10                  istered apprenticeship program, as defined  
11                  in section 3131(e)(3)(B), and such request  
12                  has been denied, provided that such denial  
13                  is not the result of a refusal by the con-  
14                  tractors or subcontractors engaged in the  
15                  performance of construction, alteration, or  
16                  repair work on such applicable project to  
17                  comply with the established standards and  
18                  requirements of such apprenticeship pro-  
19                  gram.

20                  “(E) DEFINITIONS.—For purposes of this  
21                  paragraph—

22                  “(i) LABOR HOURS.—The term ‘labor  
23                  hours’ has the meaning given such term in  
24                  section 45(b)(9)(E)(i).

1                   “(ii) QUALIFIED APPRENTICE.—The  
2                   term ‘qualified apprentice’ has the mean-  
3                   ing given such term in section  
4                   45(b)(9)(E)(ii).

5                   “(4) DOMESTIC CONTENT BONUS CREDIT  
6                   AMOUNT.—

7                   “(A) IN GENERAL.—In the case of any ap-  
8                   plicable facility which satisfies the requirements  
9                   under subparagraph (B), the credit determined  
10                  under subsection (a) shall be increased by the  
11                  applicable rate in subparagraph (C).

12                  “(B) REQUIREMENTS.—

13                  “(i) IN GENERAL.—The requirement  
14                  described in this subclause with respect to  
15                  any applicable facility is satisfied if the  
16                  taxpayer certifies to the Secretary (at such  
17                  time, and in such form and manner, as the  
18                  Secretary may prescribe) that the facility  
19                  is composed of steel, iron, or manufactured  
20                  products which were produced in the  
21                  United States.

22                  “(ii) STEEL AND IRON.—In the case  
23                  of steel or iron, clause (i) shall be applied  
24                  in a manner consistent with section

1                   661.5(b) of title 49, Code of Federal Regu-  
2                   lations.

3                   “(iii) MANUFACTURED PRODUCT.—  
4                   For purposes of clause (i), a manufactured  
5                   product shall be deemed to have been man-  
6                   ufactured in the United States if not less  
7                   than 55 percent of the total cost of the  
8                   components of such product is attributable  
9                   to components which are mined, produced,  
10                  or manufactured in the United States.

11                  “(C) APPLICABLE RATE INCREASE.—For  
12                  purposes of subparagraph (A), the applicable  
13                  credit rate increase shall be an amount equal  
14                  to—

15                  “(i) in the case of applicable facility  
16                  that does not meet the requirements of  
17                  subclause (I) or (III) of paragraph  
18                  (1)(B)(ii), 2 percentage points, and

19                  “(ii) in the case of applicable facility  
20                  that meets the requirements of subclause  
21                  (I) or (III) of paragraph (1)(B)(ii), 10 per-  
22                  centage points.

23                  “(D) INTERNATIONAL AGREEMENTS.—  
24                  This paragraph shall be applied in a manner

1 which is consistent with the obligations of the  
2 United States under international agreements.

3 “(5) PENALTY FOR DIRECT PAY.—

4 “(A) IN GENERAL.—In the case of a tax-  
5 payer making an election under section 6417  
6 with respect to a credit under this section, the  
7 amount of such credit shall be replaced with—

8 “(i) the value of such credit (deter-  
9 mined without regard to this paragraph),  
10 multiplied by

11 “(ii) the applicable percentage.

12 “(B) 100 PERCENT APPLICABLE PERCENT-  
13 AGE FOR CERTAIN APPLICABLE FACILITY.—In  
14 the case of any applicable facility—

15 “(i) which satisfies the requirements  
16 under paragraph (11) with respect to the  
17 construction of such property, or

18 “(ii) with a maximum net output of  
19 less than 1 megawatt,  
20 the applicable percentage shall be 100 percent.

21 “(C) PHASED DOMESTIC CONTENT RE-  
22 QUIREMENT.—Subject to subparagraph (D), in  
23 the case of any qualified facility which is not  
24 described in subparagraph (B), the applicable  
25 percentage shall be—

1                   “(i) if construction of such facility  
2                   began before January 1, 2024, 100 per-  
3                   cent,

4                   “(ii) if construction of such facility  
5                   began in calendar year 2024, 90 percent,

6                   “(iii) if construction of such facility  
7                   began in calendar year 2025, 85 percent,  
8                   and

9                   “(iv) if construction of such facility  
10                  began after December 31, 2025, 0 percent.

11                  “(D) EXCEPTIONS.—In order to facilitate  
12                  the use of amounts made available in this sec-  
13                  tion, increase the tax incentives for investment  
14                  in clean energy, and grow the domestic supply  
15                  chains, the Secretary shall provide appropriate  
16                  exceptions to the domestic content requirements  
17                  for products under subparagraph (C) for the  
18                  construction of qualified facilities if either the  
19                  inclusion of domestic products increases the  
20                  overall costs of projects by more than 25 per-  
21                  cent or relevant manufactured products are not  
22                  produced in the United States in sufficient and  
23                  reasonably available quantities or of a satisfac-  
24                  tory quality.

1           “(g) TERMINATION.—This section shall not apply to  
2 any property unless—

3           “(1) such property is placed in service before  
4 January 1, 2032, and

5           “(2) the qualifying electric transmission line  
6 with respect to which such property relates is placed  
7 in service before such date.

8           “(h) REGULATIONS AND GUIDANCE.—The Secretary,  
9 after consultation with the Chairman of the Federal En-  
10 ergy Regulatory Commission, shall issue such regulations  
11 or other guidance as the Secretary determines necessary  
12 or appropriate to carry out the purposes of this section.”.

13           (b) ELECTIVE PAYMENT OF CREDIT.—Section  
14 6417(b), as added by the preceding provisions of this Act,  
15 is amended by adding at the end the following new para-  
16 graph:

17           “(6) The qualifying electric transmission prop-  
18 erty credit determined under section 48D.”.

19           (c) CONFORMING AMENDMENTS.—

20           (1) Section 46 is amended—

21           (A) by striking “and” at the end of para-  
22 graph (5),

23           (B) by striking the period at the end of  
24 paragraph (6) and inserting “, and”, and

1 (C) by adding at the end the following new  
2 paragraph:

3 “(7) the qualifying electric transmission prop-  
4 erty credit.”.

5 (2) Section 49(a)(1)(C) is amended—

6 (A) by striking “and” at the end of clause  
7 (iv),

8 (B) by striking the period at the end of  
9 clause (v) and inserting “, and”, and

10 (C) by adding at the end the following new  
11 clause:

12 “(vi) the basis of any qualifying elec-  
13 tric transmission property under section  
14 48D.”.

15 (3) Section 50(a)(2)(E) is amended by striking  
16 “or 48C(b)(2)” and inserting “48C(b)(2), or 48D”.

17 (4) The table of sections for subpart E of part  
18 IV of subchapter A of chapter 1 of such Code is  
19 amended by inserting after the item relating to sec-  
20 tion 48C the following new item:

“Sec. 48D. Qualifying electric transmission property.”.

21 (d) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by  
23 this section shall apply to property placed in service  
24 after December 31, 2021.

1           (2) EXCEPTION FOR CERTAIN PROPERTY AND  
2           PROJECTS ALREADY IN PROCESS.—For exclusion of  
3           certain property and projects already in process, see  
4           section 48D(d) of the Internal Revenue Code of  
5           1986 (as added by this section).

6 **SEC. 136106. ZERO EMISSIONS FACILITY CREDIT.**

7           (a) IN GENERAL.—Subpart E of part IV of sub-  
8           chapter A of chapter 1 is amended by inserting after sec-  
9           tion 48C the following new section:

10 **“SEC. 48E. ZERO EMISSIONS FACILITY CREDIT.**

11           “(a) IN GENERAL.—For purposes of section 46, the  
12           zero emissions facility credit for any taxable year is an  
13           amount equal to 30 percent of the qualified investment  
14           for such taxable year with respect to any zero emissions  
15           facility of the taxpayer.

16           “(b) QUALIFIED INVESTMENT.—

17           “(1) IN GENERAL.—For purposes of subsection  
18           (a), the qualified investment for any taxable year is  
19           the basis of eligible property placed in service by the  
20           taxpayer during such taxable year which is part of  
21           a zero emissions facility.

22           “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-  
23           TURES RULES MADE APPLICABLE.—Rules similar to  
24           the rules of subsections (c)(4) and (d) of section 46  
25           (as in effect on the day before the enactment of the

1 Revenue Reconciliation Act of 1990) shall apply for  
2 purposes of this section.

3 “(3) LIMITATION.—The amount which is treat-  
4 ed as the qualified investment for all taxable years  
5 with respect to any zero emissions facility shall not  
6 exceed the amount designated by the Secretary as el-  
7 igible for the credit under this section.

8 “(c) ZERO EMISSIONS FACILITY.—

9 “(1) IN GENERAL.—For purposes of this sec-  
10 tion, the term ‘zero emissions facility’ means any fa-  
11 cility—

12 “(A) which generates electricity,

13 “(B) which does not generate any green-  
14 house gases (within the meaning of section  
15 211(o)(1)(G) of the Clean Air Act (42 U.S.C.  
16 7545(o)(1)(G)), as in effect on the date of the  
17 enactment of this section),

18 “(C) which uses a technology or process  
19 which, in the calendar year in which an amount  
20 of credit is designated with respect to such fa-  
21 cility, achieved a market penetration level of  
22 less than 3 percent,

23 “(D) no portion of which is—

24 “(i) a qualified facility (as defined in  
25 section 45(d)),

1 “(ii) an advanced nuclear power facil-  
2 ity (as defined in section 45J(d)),

3 “(iii) a qualified facility (as defined in  
4 section 45Q), or

5 “(iv) energy property (as defined in  
6 section 48(a)(3)).

7 “(2) MARKET PENETRATION LEVEL.—For pur-  
8 poses of this subsection, the term ‘market penetra-  
9 tion level’ means, with respect to any calendar year,  
10 the amount equal to the greater of—

11 “(A) the amount (expressed as a percent-  
12 age) equal to the quotient of—

13 “(i) the sum of all electricity produced  
14 (expressed in terawatt hours) from the  
15 technology or method used for the produc-  
16 tion of electricity by all electricity gener-  
17 ating facilities in the United States during  
18 such calendar year (as determined by the  
19 Secretary on the basis of data reported by  
20 the Energy Information Administration),  
21 divided by the total domestic power sector  
22 electricity production (expressed in  
23 terawatt hours) for such calendar year, or

24 “(ii) the amount determined under  
25 this subparagraph for the preceding cal-

1                   endar year with respect to such technology  
2                   or method.

3           “(d) ELIGIBLE PROPERTY.—For purposes of this  
4 section, the term ‘eligible property’ means any property—

5                   “(1) which is necessary for the generation of  
6 electricity,

7                   “(2) which is—

8                           “(A) tangible personal property, or

9                           “(B) other tangible property (not including  
10 a building or its structural components), but  
11 only if such property is used as an integral part  
12 of the zero emissions facility, and

13                   “(3) with respect to which depreciation (or am-  
14 ortization in lieu of depreciation) is allowable.

15           “(e) ALLOCATIONS.—

16                   “(1) IN GENERAL.—Not later than 180 days  
17 after the date of enactment of this section, the Sec-  
18 retary, after consultation with the Secretary of En-  
19 ergy and the Administrator of the Environmental  
20 Protection Agency, shall establish a program to con-  
21 sider and award certification amounts of zero emis-  
22 sions facility credit limitation to zero emissions fa-  
23 cilities.

24                   “(2) ANNUAL LIMITATION.—

1           “(A) IN GENERAL.—The amount of zero  
2 emissions facility credit limitation that may be  
3 designated under this subsection during any  
4 calendar year shall not exceed the annual credit  
5 limitation with respect to such year.

6           “(B) ANNUAL CREDIT LIMITATION.—For  
7 purposes of this subsection, the term ‘annual  
8 credit limitation’ means \$250,000,000 for each  
9 of calendar years 2022 through 2031, and zero  
10 thereafter.

11           “(C) CARRYOVER OF UNUSED LIMITA-  
12 TION.—If the annual credit limitation for any  
13 calendar year exceeds the aggregate amount  
14 designated for such year under this subsection,  
15 such limitation for the succeeding calendar year  
16 shall be increased by the amount of such excess.  
17 No amount may be carried under the preceding  
18 sentence to any calendar year after 2031.

19           “(3) PLACED IN SERVICE DEADLINE.—

20           “(A) IN GENERAL.—No credit shall be de-  
21 termined under subsection (a) with respect to  
22 any zero emissions facility which is placed in  
23 service after the date that is 4 years after the  
24 date of the designation under this subsection  
25 relating to such zero emissions facility.

1           “(B) APPLICATION OF CARRYOVER.—Any  
2           amount of credit which expires under subpara-  
3           graph (A) during any calendar year shall be  
4           taken into account as an excess described in  
5           paragraph (2)(C) (or as an increase in such ex-  
6           cess) for such calendar, subject to the limitation  
7           imposed by the last sentence of such paragraph.

8           “(4) SELECTION CRITERIA.—In determining  
9           which zero emissions facilities to certify under this  
10          section, the Secretary, after consultation with the  
11          Secretary of Energy and the Administrator of the  
12          Environmental Protection Agency, shall—

13                 “(A) take into consideration which facili-  
14                 ties—

15                         “(i) will result in the greatest reduc-  
16                         tion of greenhouse gas emissions,

17                         “(ii) have the greatest potential for  
18                         technological innovation and commercial  
19                         deployment, and

20                         “(iii) will result in the greatest reduc-  
21                         tion of local environmental effects that are  
22                         harmful to human health, and

23                 “(B) require that applicants provide writ-  
24                 ten assurances to the Secretary that all laborers  
25                 and mechanics employed by contractors and

1 subcontractors in the performance of construc-  
2 tion, alteration or repair work on a zero emis-  
3 sions facility shall be paid wages at rates not  
4 less than those prevailing on projects of a simi-  
5 lar character in the locality as determined by  
6 the Secretary of Labor in accordance with sub-  
7 chapter IV of chapter 31 of title 40, United  
8 States Code.

9 “(5) DISCLOSURE OF CERTIFICATIONS.—The  
10 Secretary shall, upon making a certification under  
11 this subsection, publicly disclose the identity of the  
12 applicant, the amount of the credit awarded with re-  
13 spect to such applicant, and the location of the zero-  
14 emissions facility for which such credit is awarded.

15 “(f) CREDIT CONDITIONED UPON WAGE AND AP-  
16 PRENTICESHIP REQUIREMENTS.—

17 “(1) IN GENERAL.—No credit shall be allocated  
18 for a zero emissions facility under this section unless  
19 the zero emissions facility meets the prevailing wage  
20 requirements of paragraph (2) and the apprentice-  
21 ship requirements of paragraph (3).

22 “(2) PREVAILING WAGE REQUIREMENTS.—

23 “(A) IN GENERAL.—The requirements de-  
24 scribed in this paragraph with respect to a zero  
25 emissions facility are that the taxpayer shall en-

1           sure that any laborers and mechanics employed  
2           by contractors and subcontractors in—

3                   “(i) the construction of such zero  
4                   emissions facility, and

5                   “(ii) for any year during the 5-year  
6                   period beginning on the date the facility is  
7                   originally placed in service, the alteration  
8                   or repair of such zero emissions facility,  
9           shall be paid wages at rates not less than the  
10          prevailing rates for construction, alteration, or  
11          repair of a similar character in the locality as  
12          most recently determined by the Secretary of  
13          Labor, in accordance with subchapter IV of  
14          chapter 31 of title 40, United States Code.

15                   “(B) CORRECTION AND PENALTY RELATED  
16                   TO FAILURE TO SATISFY WAGE REQUIRE-  
17                   MENTS.—

18                   “(i) IN GENERAL.—In the case of any  
19                   taxpayer which fails to satisfy the require-  
20                   ment under subparagraph (A) with respect  
21                   to the construction of any qualified facility  
22                   or with respect to the alteration or repair  
23                   of a facility in any year during the period  
24                   described in subparagraph (A)(ii), such  
25                   taxpayer shall be deemed to have satisfied

1           such requirement under such subparagraph  
2           with respect to such zero emissions facility  
3           for any year if, with respect to any laborer  
4           or mechanic who was paid wages at a rate  
5           below the rate described in such subpara-  
6           graph for any period during such year,  
7           such taxpayer—

8                       “(I) makes payment to such la-  
9                       borer or mechanic in an amount equal  
10                      to the sum of—

11                               “(aa) an amount equal to  
12                               the difference between the  
13                               amount of wages paid to such la-  
14                               borer or mechanic during such  
15                               period, and—

16                               “(bb) the amount of wages  
17                               required to be paid to such la-  
18                               borer or mechanic pursuant to  
19                               such subparagraph during such  
20                               period, plus

21                                       “(AA) interest on the  
22                                       amount determined under  
23                                       item (aa) at the under-  
24                                       payment rate established  
25                                       under section 6621 for the

1 period described in such  
2 item, and

3 “(II) makes payment to the Sec-  
4 retary of a penalty in an amount  
5 equal to the product of—

6 “(aa) \$5,000, multiplied by  
7 “(bb) the total number of la-  
8 borers and mechanics who were  
9 paid wages at a rate below the  
10 rate described in subparagraph  
11 (A) for any period during such  
12 year.

13 “(ii) PENALTY ASSESSED AS TAX.—  
14 The penalty described in clause (i)(II)  
15 shall be treated in the same manner as a  
16 penalty imposed under subchapter B of  
17 chapter 68.

18 “(3) APPRENTICESHIP REQUIREMENTS.—The  
19 requirements described in this subparagraph with re-  
20 spect to a zero emissions facility are as follows:

21 “(A) LABOR HOURS.—

22 “(i) PERCENTAGE OF TOTAL LABOR  
23 HOURS.—All contractors and subcontrac-  
24 tors engaged in the performance of con-  
25 struction, alteration, or repair work on any

1 facility prior to such facility being placed  
2 into service shall, subject to subparagraph  
3 (B), ensure that not less than the applica-  
4 ble percentage of the total labor hours of  
5 such work be performed by qualified ap-  
6 prentices.

7 “(ii) APPLICABLE PERCENTAGE.—For  
8 purposes of paragraph (1), the applicable  
9 percentage shall be—

10 “(I) in the case of any applicable  
11 zero emissions facility the construc-  
12 tion of which begins before January 1,  
13 2023, 5 percent,

14 “(II) in the case of any applica-  
15 ble zero emissions facility the con-  
16 struction of which begins after De-  
17 cember 31, 2022, and before January  
18 1, 2024, 10 percent, and

19 “(III) in the case of any applica-  
20 ble zero emissions facility the con-  
21 struction of which begins after De-  
22 cember 31, 2023, 15 percent.

23 “(B) APPRENTICE TO JOURNEYWORKER  
24 RATIO.—The requirement under subparagraph  
25 (A)(i) shall be subject to any applicable require-

1           ments for apprentice-to-journeyworker ratios of  
2           the Department of Labor or the applicable  
3           State apprenticeship agency.

4           “(C) PARTICIPATION.—Each contractor  
5           and subcontractor who employs 4 or more indi-  
6           viduals to perform construction, alteration, or  
7           repair work on an applicable zero emissions fa-  
8           cility shall employ 1 or more qualified appren-  
9           tices to perform such work.

10          “(D) EXCEPTION.—

11           “(i) IN GENERAL.—Notwithstanding  
12           any other provision of this paragraph, this  
13           paragraph shall not apply in the case of a  
14           taxpayer who—

15           “(I) demonstrates a lack of avail-  
16           ability of qualified apprentices in the  
17           geographic area of the construction,  
18           alteration, or repair work, and

19           “(II) makes a good faith effort to  
20           comply with the requirements of this  
21           paragraph.

22           “(ii) GOOD FAITH EFFORT.—For pur-  
23           poses of clause (i), a taxpayer shall be  
24           deemed to have satisfied the requirements  
25           under such paragraph with respect to an

1 applicable project if such taxpayer has re-  
2 requested qualified apprentices from a reg-  
3 istered apprenticeship program, as defined  
4 in section 3131(e)(3)(B), and such request  
5 has been denied, provided that such denial  
6 is not the result of a refusal by the con-  
7 tractors or subcontractors engaged in the  
8 performance of construction, alteration, or  
9 repair work on such applicable project to  
10 comply with the established standards and  
11 requirements of such apprenticeship pro-  
12 gram.

13 “(E) DEFINITIONS.—For purposes of this  
14 paragraph—

15 “(i) LABOR HOURS.—The term ‘labor  
16 hours’—

17 “(I) means the total number of  
18 hours devoted to the performance of  
19 construction, alteration, or repair  
20 work by employees of the contractor  
21 or subcontractor prior to a facility  
22 being placed into service, and

23 “(II) excludes any hours worked  
24 by—

25 “(aa) foremen,

1 “(bb) superintendents,  
2 “(cc) owners, or  
3 “(dd) persons employed in a  
4 bona fide executive, administra-  
5 tive, or professional capacity  
6 (within the meaning of those  
7 terms in part 541 of title 29,  
8 Code of Federal Regulations).

9 “(ii) QUALIFIED APPRENTICE.—The  
10 term ‘qualified apprentice’ has the mean-  
11 ing given such term in section  
12 45(b)(9)(E)(ii).

13 “(4) REGULATIONS AND GUIDANCE.—The Sec-  
14 retary shall issue such regulations or other guidance  
15 as the Secretary determines necessary or appropriate  
16 to carry out the purposes of this subsection.

17 “(5) PENALTY FOR DIRECT PAY.—

18 “(A) IN GENERAL.—In the case of a tax-  
19 payer making an election under section 6417  
20 with respect to a credit under this section, the  
21 amount of such credit shall be replaced with—

22 “(i) the value of such credit (deter-  
23 mined without regard to this paragraph),  
24 multiplied by

25 “(ii) the applicable percentage.

1           “(B) 100 PERCENT APPLICABLE PERCENT-  
2           AGE FOR CERTAIN QUALIFIED FACILITIES.—In  
3           the case of any qualified facility—

4                   “(i) which satisfies the requirements  
5                   under paragraph (5) with respect to the  
6                   construction of such facility, or

7                   “(ii) with a maximum net output of  
8                   less than 1 megawatt,  
9           the applicable percentage shall be 100 percent.

10           “(C) PHASED DOMESTIC CONTENT RE-  
11           QUIREMENT.—Subject to subparagraph (D), in  
12           the case of any qualified facility which is not  
13           described in subparagraph (B), the applicable  
14           percentage shall be—

15                   “(i) if construction of such facility  
16                   began before January 1, 2024, 100 per-  
17                   cent,

18                   “(ii) if construction of such facility  
19                   began in calendar year 2024, 90 percent,

20                   “(iii) if construction of such facility  
21                   began in calendar year 2025, 85 percent,  
22                   and

23                   “(iv) if construction of such facility  
24                   began after December 31, 2025, 0 percent.

1           “(D) EXCEPTION.—If the Secretary, after  
2           consultation with the Secretary of Commerce  
3           and the United States Trade Representative,  
4           determines that, for purposes of application of  
5           the requirements under paragraph (5) with re-  
6           spect to the construction of the qualified facil-  
7           ity—

8                   “(i) their application would be incon-  
9                   sistent with the public interest,

10                   “(ii) such materials and products are  
11                   not produced in the United States in suffi-  
12                   cient and reasonably available quantities  
13                   and of a satisfactory quality, or

14                   “(iii) inclusion of domestic material  
15                   will increase the cost of the construction of  
16                   the qualified facility by more than 25 per-  
17                   cent,

18           the applicable percentage shall be 100 per-  
19           cent.”.

20           (b) ELECTIVE PAYMENT OF CREDIT.—Section  
21   6417(b), as added and amended by the preceding provi-  
22   sions of this Act, is amended by adding at the end the  
23   following new paragraph:

24                   “(7) The zero emissions facility credit deter-  
25                   mined under section 48E.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 46 is amended by striking “and” at  
3 the end of paragraph (6), by striking the period at  
4 the end of paragraph (7) and inserting “, and”, and  
5 by adding at the end the following new paragraph:

6 “(8) the zero emissions facility credit.”.

7 (2) Section 49(a)(1)(C) is amended by striking  
8 “and” at the end of clause (v), by striking the pe-  
9 riod at the end of clause (vi) and inserting a comma,  
10 and by adding at the end the following new clause:

11 “(vii) the basis of any eligible prop-  
12 erty which is part of a zero emissions facil-  
13 ity under section 48D.”.

14 (3) Section 50(a)(2)(E) is amended by striking  
15 “ or 48D” and inserting “48D, or 48E(b)(2)”.

16 (4) The table of sections for subpart E of part  
17 IV of subchapter A of chapter 1 is amended by in-  
18 serting after the item relating to section 48D the  
19 following new item:

Sec. 48E. Zero emissions facility credit.

20 (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to periods after December 31,  
22 2021, under rules similar to the rules of section 48(m)  
23 of the Internal Revenue Code of 1986 (as in effect on the  
24 day before the date of the enactment of the Revenue Rec-  
25 onciliation Act of 1990)

1 **SEC. 136107. EXTENSION AND MODIFICATION OF CREDIT**  
2 **FOR CARBON OXIDE SEQUESTRATION.**

3 (a) EXTENSION.—Section 45Q(d)(1) is amended by  
4 striking “January 1, 2026” and inserting “January 1,  
5 2032”.

6 (b) MODIFICATION OF CARBON OXIDE CAPTURE RE-  
7 QUIREMENTS.—Section 45Q(d)(2) is amended to read as  
8 follows:

9 “(2) which captures—

10 “(A) in the case of a direct air capture fa-  
11 cility, not less than 1,000 metric tons of quali-  
12 fied carbon oxide during the taxable year,

13 “(B) in the case of an electricity gener-  
14 ating facility, not less than 18,750 metric tons  
15 of qualified carbon oxide during the taxable  
16 year and not less than 75 percent of the carbon  
17 oxide that would otherwise be released into the  
18 atmosphere by such facility during such taxable  
19 year, and

20 “(C) in the case of any other facility, not  
21 less than 12,500 metric tons of qualified carbon  
22 oxide during the taxable year and not less than  
23 50 percent of the carbon oxide that would oth-  
24 erwise be released into the atmosphere by such  
25 facility during such taxable year.”.

1           (c) DETERMINATION OF APPLICABLE DOLLAR  
2 AMOUNT.—

3           (1) IN GENERAL.—Section 45Q(b)(1) is amend-  
4 ed by redesignating subparagraph (B) as subpara-  
5 graph (C) and by inserting after subparagraph (A)  
6 the following new subparagraph:

7                   “(B) SPECIAL RULE FOR DIRECT AIR CAP-  
8 TURE FACILITIES.—For any taxable year begin-  
9 ning after December 31, 2021, in the case of  
10 any qualified facility described in subsection  
11 (d)(2)(C), the applicable dollar amount shall be  
12 an amount equal to—

13                           “(i) for purposes of paragraph (3) of  
14 subsection (a), an amount equal to the  
15 product of \$180 and the inflation adjust-  
16 ment factor for such calendar year deter-  
17 mined under section 43(b)(3)(B) for such  
18 calendar year, determined by substituting  
19 ‘2020’ for ‘1990’, and

20                           “(ii) for purposes of paragraph (4) of  
21 such subsection, an amount equal to the  
22 product of \$130 and the inflation adjust-  
23 ment factor for such calendar year deter-  
24 mined under section 43(b)(3)(B) for such

1           calendar year, determined by substituting  
2           ‘2020’ for ‘1990’.”.

3           (2) CONFORMING AMENDMENTS.—

4           (A) Section 45Q(b)(1)(A) is amended by  
5           striking “The applicable dollar amount” and in-  
6           serting “Except as provided in subparagraph  
7           (B), the applicable dollar amount”.

8           (B) Section 45Q(b)(1)(C), as redesignated  
9           by subparagraph (A), is amended by striking  
10          “subparagraph (A)” and inserting “subpara-  
11          graph (A) or (B)”.

12          (d) WAGE AND APPRENTICESHIP REQUIREMENTS.—

13          Section 45Q is amended by redesignating subsection (h)  
14          as subsection (i) and inserting after subsection (g) fol-  
15          lowing new subsection:

16          “(h) BASE CREDIT AMOUNT AND INCREASED CRED-  
17          IT AMOUNT FOR QUALIFIED FACILITIES AND CARBON  
18          CAPTURE EQUIPMENT.—

19                 “(1) IN GENERAL.—In the case of any qualified  
20          facility and any carbon capture equipment which  
21          does not satisfy the requirements of paragraph (2),  
22          the amount of the credit determined under sub-  
23          section (a) shall be 20 percent of such amount (de-  
24          termined without regard to this sentence).

1           “(2) INCREASED CREDIT FOR CERTAIN FACILI-  
2           TIES AND CARBON CAPTURE EQUIPMENT MEETING  
3           PROJECT REQUIREMENTS.—

4           “(A) IN GENERAL.—In the case of any  
5           qualified facility and any carbon capture equip-  
6           ment placed in service at such facility which  
7           meets the project requirements of this subpara-  
8           graph, subparagraph (A) shall not apply.

9           “(B) PROJECT REQUIREMENTS.—A project  
10          meets the requirements of this subparagraph if  
11          it is one of the following:

12           “(i) A qualified facility with a max-  
13           imum net output of less than 1 megawatt.

14           “(ii) A qualified facility or any carbon  
15           capture equipment placed in service at  
16           such facility which commences construction  
17           prior to the date of the enactment of this  
18           paragraph.

19           “(iii) A project which satisfies the re-  
20           quirements of paragraphs (3) and (4).

21          “(3) PREVAILING WAGE REQUIREMENTS.—

22           “(A) IN GENERAL.—The requirements de-  
23           scribed in this subparagraph with respect to  
24           any qualified facility and any carbon capture  
25           equipment placed in service at such facility are

1           that the taxpayer shall ensure that any laborers  
2           and mechanics employed by contractors and  
3           subcontractors in—

4                   “(i) the construction of such facility  
5                   and carbon capture equipment,

6                   “(ii) the alteration or repair of such  
7                   facility and carbon capture equipment dur-  
8                   ing the 12 year-period after being placed  
9                   into service, or for carbon capture equip-  
10                  ment placed in service prior to 2018, until  
11                  the date determined by the Secretary  
12                  under subsection (g),

13           shall be paid wages at rates not less than the  
14           prevailing rates for construction, alteration, or  
15           repair of a similar character in the locality as  
16           most recently determined by the Secretary of  
17           Labor, in accordance with subchapter IV of  
18           chapter 31 of title 40, United States Code.

19                   “(B) CORRECTION AND PENALTY RELATED  
20                   TO FAILURE TO SATISFY WAGE REQUIRE-  
21                   MENTS.—

22                   “(i) IN GENERAL.—In the case of any  
23                   taxpayer which fails to satisfy the require-  
24                   ment under subparagraph (A) with respect  
25                   to the construction of any qualified facility

1 or with respect to the alteration or repair  
2 of a facility in any year during the period  
3 described in subparagraph (A)(ii), such  
4 taxpayer shall be deemed to have satisfied  
5 such requirement under such subparagraph  
6 with respect to such facility and carbon  
7 capture equipment for any year if, with re-  
8 spect to any laborer or mechanic who was  
9 paid wages at a rate below the rate de-  
10 scribed in such subparagraph for any pe-  
11 riod during such year, such taxpayer—

12 “(I) makes payment to such la-  
13 borer or mechanic in an amount equal  
14 to the sum of an amount equal to the  
15 difference between the amount of  
16 wages paid to such laborer or me-  
17 chanic during such period, and—

18 “(aa) the amount of wages  
19 required to be paid to such la-  
20 borer or mechanic pursuant to  
21 such subparagraph during such  
22 period, plus

23 “(bb) interest on the  
24 amount determined under item  
25 (aa) at the underpayment rate

1 established under section 6621  
2 for the period described in such  
3 item, and

4 “(II) makes payment to the Sec-  
5 retary of a penalty in an amount  
6 equal to the product of—

7 “(aa) \$5,000, multiplied by

8 “(bb) the total number of la-  
9 borers and mechanics who were  
10 paid wages at a rate below the  
11 rate described in subparagraph  
12 (A) for any period during such  
13 year.

14 “(ii) PENALTY ASSESSED AS TAX.—  
15 The penalty described in clause (i)(II)  
16 shall be treated in the same manner as a  
17 penalty imposed under subchapter B of  
18 chapter 68.

19 “(4) APPRENTICESHIP REQUIREMENTS.—The  
20 requirements described in this paragraph with re-  
21 spect to any qualified facility and carbon capture  
22 equipment are as follows:

23 “(A) LABOR HOURS.—

24 “(i) PERCENTAGE OF TOTAL LABOR  
25 HOURS.—All contractors and subcontrac-

1           tors engaged in the performance of con-  
2           struction, alteration, or repair work on any  
3           facility and carbon capture equipment  
4           prior to such facility being placed into  
5           service shall, subject to subparagraph (B),  
6           ensure that not less than the applicable  
7           percentage of the total labor hours of such  
8           work be performed by qualified appren-  
9           tices.

10           “(ii) APPLICABLE PERCENTAGE.—For  
11           purposes of paragraph (1), the applicable  
12           percentage shall be—

13                   “(I) in the case of any applicable  
14                   project the construction of which be-  
15                   gins before January 1, 2023, 5 per-  
16                   cent,

17                   “(II) in the case of any applica-  
18                   ble project the construction of which  
19                   begins after December 31, 2022, and  
20                   before January 1, 2024, 10 percent,  
21                   and

22                   “(III) in the case of any applica-  
23                   ble project the construction of which  
24                   begins after December 31, 2023, 15  
25                   percent.

1           “(B) APPRENTICE TO JOURNEYWORKER  
2           RATIO.—The requirement under subparagraph  
3           (A)(i) shall be subject to any applicable require-  
4           ments for apprentice-to-journeyworker ratios of  
5           the Department of Labor or the applicable  
6           State apprenticeship agency.

7           “(C) PARTICIPATION.—Each contractor  
8           and subcontractor who employs 4 or more indi-  
9           viduals to perform construction, alteration, or  
10          repair work on an applicable project shall em-  
11          ploy 1 or more qualified apprentices to perform  
12          such work.

13          “(D) EXCEPTION.—

14                 “(i) IN GENERAL.—Notwithstanding  
15                 any other provision of this paragraph, this  
16                 paragraph shall not apply in the case of a  
17                 taxpayer who—

18                         “(I) demonstrates a lack of avail-  
19                         ability of qualified apprentices in the  
20                         geographic area of the construction,  
21                         alteration, or repair work, and

22                         “(II) makes a good faith effort to  
23                         comply with the requirements of this  
24                         paragraph.

1           “(ii) GOOD FAITH EFFORT.—For pur-  
2           poses of clause (i), a taxpayer shall be  
3           deemed to have satisfied the requirements  
4           under such paragraph with respect to an  
5           applicable project if such taxpayer has re-  
6           quested qualified apprentices from a reg-  
7           istered apprenticeship program, as defined  
8           in section 3131(e)(3)(B), and such request  
9           has been denied, provided that such denial  
10          is not the result of a refusal by the con-  
11          tractors or subcontractors engaged in the  
12          performance of construction, alteration, or  
13          repair work on such applicable project to  
14          comply with the established standards and  
15          requirements of such apprenticeship pro-  
16          gram.

17          “(E) DEFINITIONS.—For purposes of this  
18          paragraph—

19                 “(i) LABOR HOURS.—The term ‘labor  
20                 hours’ has the meaning given such term in  
21                 section 45(b)(9)(E)(i).

22                 “(ii) QUALIFIED APPRENTICE.—The  
23                 term ‘qualified apprentice’ has the mean-  
24                 ing given such term in section  
25                 45(b)(9)(E)(ii).

1           “(5) REGULATIONS AND GUIDANCE.—The Sec-  
2           retary shall issue such regulations or other guidance  
3           as the Secretary determines necessary or appropriate  
4           to carry out the purposes of this subsection.”.

5           (e) INCREASED APPLICABLE DOLLAR AMOUNT.—

6           (1) IN GENERAL.—Section 45Q(b)(1) is amend-  
7           ed—

8           (A) by amending clause (i) of subpara-  
9           graph (A) to read as follows:

10                   “(i) for any taxable year beginning in  
11                   a calendar year after 2016 and before  
12                   2027—

13                           “(I) for purposes of paragraph  
14                           (3) of subsection (a), \$50 for each  
15                           calendar year during such period, and

16                                   “(II) for purposes of paragraph  
17                           (4) of such subsection, \$35 for each  
18                           calendar year during such period,  
19                           and”,

20           (B) by redesignating subparagraphs (B)  
21           and (C) as subparagraphs (C) and (D), and

22           (C) by inserting after subparagraph (A)  
23           the following new subparagraph:

24                   “(B) INFLATION ADJUSTMENT.—In the  
25                   case of any taxable year beginning in a calendar

1 year after 2025, each of the dollar amounts in  
2 subparagraph (A)(i) shall be increased by an  
3 amount equal to—

4 “(i) such dollar amount, multiplied by

5 “(ii) the cost-of-living adjustment de-  
6 termined under section 1(f)(3) for the cal-  
7 endar year in which the taxable year be-  
8 gins, determined by substituting ‘calendar  
9 year 2024’ for ‘calendar year 2016’ in sub-  
10 paragraph (A)(ii) thereof.

11 Any increase determined under the preceding  
12 sentence shall be rounded to the nearest cent.”.

13 (f) EFFECTIVE DATES.—

14 (1) EXTENSION.—The amendment made by  
15 subsection (a) shall apply to facilities the construc-  
16 tion of which begins after December 31, 2025.

17 (2) OTHER AMENDMENTS.—The amendments  
18 made by subsections (b), (c), (d), and (e) shall apply  
19 to taxable years beginning after December 31, 2021.

20 **SEC. 136108. GREEN ENERGY PUBLICLY TRADED PARTNER-**  
21 **SHIPS.**

22 (a) IN GENERAL.—Section 7704(d)(1)(E) is amend-  
23 ed—

1           (1) by striking “income and gains derived from  
2           the exploration” and inserting “income and gains  
3           derived from—

4                           “(i) the exploration”,

5           (2) by inserting “or” before “industrial  
6           source”, and

7           (3) by striking “, or the transportation or stor-  
8           age” and all that follows and inserting the following:

9                           “(ii) the generation of electric power  
10                           or thermal energy exclusively using any  
11                           qualified energy resource (as defined in  
12                           section 45(c)(1)),

13                           “(iii) the operation of energy property  
14                           (as defined in section 48(a)(3), determined  
15                           without regard to any date by which the  
16                           construction of the facility is required to  
17                           begin),

18                           “(iv) in the case of a facility described  
19                           in paragraph (3) or (7) of section 45(d)  
20                           (determined without regard to any placed  
21                           in service date or date by which construc-  
22                           tion of the facility is required to begin),  
23                           the accepting or processing of open-loop  
24                           biomass or municipal solid waste,

1           “(v) the transportation or storage of  
2           any fuel described in subsection (b), (c),  
3           (d), or (e) of section 6426,

4           “(vi) the conversion of renewable bio-  
5           mass (as defined in subparagraph (I) of  
6           section 211(o)(1) of the Clean Air Act (as  
7           in effect on the date of the enactment of  
8           this clause)) into renewable fuel (as de-  
9           fined in subparagraph (J) of such section  
10          as so in effect), or the storage or transpor-  
11          tation of such fuel,

12          “(vii) the production, storage, or  
13          transportation of any fuel which—

14                 “(I) uses as its primary feedstock  
15                 carbon oxides captured from an an-  
16                 thropogenic source or the atmosphere,

17                 “(II) does not use as its primary  
18                 feedstock carbon oxide which is delib-  
19                 erately released from naturally occur-  
20                 ring subsurface springs, and

21                 “(III) is determined by the Sec-  
22                 retary, after consultation with the  
23                 Secretary of Energy and the Adminis-  
24                 trator of the Environmental Protec-  
25                 tion Agency, to achieve a reduction of

1 not less than a 60 percent in lifecycle  
2 greenhouse gas emissions (as defined  
3 in section 211(o)(1)(H) of the Clean  
4 Air Act, as in effect on the date of the  
5 enactment of this clause) compared to  
6 baseline lifecycle greenhouse gas emis-  
7 sions (as defined in section  
8 211(o)(1)(C) of such Act, as so in ef-  
9 fect), or  
10 “(viii) a qualified facility (as defined  
11 in section 45Q(d), without regard to any  
12 date by which construction of the facility is  
13 required to begin).”.

14 (b) **EFFECTIVE DATE.**—The amendments made by  
15 this section apply to taxable years beginning after Decem-  
16 ber 31, 2021.

17 **SEC. 136109. ZERO-EMISSION NUCLEAR POWER PRODUC-**  
18 **TION CREDIT.**

19 (a) **IN GENERAL.**—Subpart D of part IV of sub-  
20 chapter A of chapter 1 of the Internal Revenue Code of  
21 1986 is amended by adding at the end the following new  
22 section:

1 **“SEC. 45W. ZERO-EMISSION NUCLEAR POWER PRODUCTION**  
2 **CREDIT.**

3 “(a) AMOUNT OF CREDIT.—For purposes of section  
4 38, the zero-emission nuclear power production credit for  
5 any taxable year is an amount equal to the amount by  
6 which—

7 “(1) the product of—

8 “(A) 1.5 cents, multiplied by

9 “(B) the kilowatt hours of electricity—

10 “(i) produced by the taxpayer at a  
11 qualified nuclear power facility, and

12 “(ii) sold by the taxpayer to an unre-  
13 lated person during the taxable year, ex-  
14 ceeds

15 “(2) the reduction amount for such taxable  
16 year.

17 “(b) DEFINITIONS.—

18 “(1) QUALIFIED NUCLEAR POWER FACILITY.—

19 For purposes of this section, the term ‘qualified nu-  
20 clear power facility’ means any nuclear facility—

21 “(A) which is owned by the taxpayer and  
22 which uses nuclear energy to produce elec-  
23 tricity,

24 “(B) which has not received an allocation  
25 under section 45J(b), and

1           “(C) which is placed in service before the  
2           date of the enactment of this section.

3           “(2) REDUCTION AMOUNT.—

4           “(A) IN GENERAL.—For purposes of this  
5           section, the term ‘reduction amount’ means,  
6           with respect to any qualified nuclear power fa-  
7           cility for any taxable year, the amount equal to  
8           the lesser of—

9                   “(i) the amount determined under  
10                   subsection (a)(1), or

11                   “(ii) the amount equal to 80 percent  
12                   of the excess of—

13                           “(I) subject to subparagraph (B),  
14                           the gross receipts from any electricity  
15                           produced by such facility (including  
16                           any electricity services or products  
17                           provided in conjunction with the elec-  
18                           tricity produced by such facility) and  
19                           sold to an unrelated person during  
20                           such taxable year, over

21                           “(II) the amount equal to the  
22                           product of—

23                                   “(aa) 2.5 cents, multiplied  
24                                   by

1                   “(bb) the amount deter-  
2                   mined under subsection  
3                   (a)(1)(B).

4                   “(B) TREATMENT OF CERTAIN RE-  
5                   CEIPTS.—

6                   “(i) IN GENERAL.—The amount de-  
7                   termined under subparagraph (A)(ii)(I)  
8                   shall include any amount received by the  
9                   taxpayer during the taxable year with re-  
10                  spect to the qualified nuclear power facility  
11                  from a zero-emission credit program unless  
12                  the amount received by the taxpayer is  
13                  subject to reduction—

14                  “(I) by the full amount of the  
15                  credit determined under this section,  
16                  or

17                  “(II) by any lesser amount if  
18                  such amount entirely offsets the  
19                  amount received from a zero-emission  
20                  credit program.

21                  “(ii) ZERO-EMISSION CREDIT PRO-  
22                  GRAM.—For purposes of this subpara-  
23                  graph, the term ‘zero-emission credit pro-  
24                  gram’ means any payments to a qualified  
25                  nuclear power facility as a result of any

1 Federal, State or local government pro-  
2 gram for, in whole or in part, the zero-  
3 emission, zero-carbon, or air quality at-  
4 tributes of any portion of the electricity  
5 produced by such facility.

6 “(3) ELECTRICITY.—For purposes of this sec-  
7 tion, the term ‘electricity’ means the energy pro-  
8 duced by a qualified nuclear power facility from the  
9 conversion of nuclear fuel into electric power.

10 “(c) OTHER RULES.—

11 “(1) INFLATION ADJUSTMENT.—The 1.5 cent  
12 amount in subsection (a)(1)(A) and the 2.5 cent  
13 amount in subsection (b)(2)(A)(ii)(II)(aa) shall each  
14 be adjusted by multiplying such amount by the infla-  
15 tion adjustment factor (as determined under section  
16 45(e)(2), as applied by substituting ‘calendar year  
17 2022’ for ‘calendar year 1992’ in subparagraph (B)  
18 thereof) for the calendar year in which the sale oc-  
19 curs. If any amount as increased under the pre-  
20 ceding sentence is not a multiple of 0.1 cent, such  
21 amount shall be rounded to the nearest multiple of  
22 0.1 cent.

23 “(2) SPECIAL RULES.—Rules similar to the  
24 rules of paragraphs (1), (3), (4), and (5) of section  
25 45(e) shall apply for purposes of this section.

1           “(3) DENIAL OF DOUBLE BENEFIT.—No credit  
2 shall be allowed under section 48E for any power  
3 production for which a credit is taken under this  
4 section.

5           “(d) WAGE AND APPRENTICESHIP REQUIRE-  
6 MENTS.—

7           “(1) BASE CREDIT AMOUNT AND INCREASED  
8 CREDIT AMOUNT FOR QUALIFIED NUCLEAR POWER  
9 FACILITIES.—

10           “(A) IN GENERAL.—In the case of any  
11 qualified nuclear power facility which does not  
12 satisfy the requirements of subparagraph (B),  
13 the amount of the credit determined under sub-  
14 section (a) and the 2.5 cent amount in sub-  
15 section (b)(2)(A)(ii)(II)(aa) shall be 20 percent  
16 of such amount (determined without regard to  
17 this sentence).

18           “(B) INCREASED CREDIT FOR CERTAIN FA-  
19 CILITIES MEETING PROJECT REQUIREMENTS.—

20           “(i) IN GENERAL.—In the case of any  
21 qualified nuclear power facility which  
22 meets the project requirements of this sub-  
23 paragraph, subparagraph (A) shall not  
24 apply.

1                   “(ii) PROJECT REQUIREMENTS.—A  
2                   project meets the requirements of this sub-  
3                   paragraph if it is one of the following:

4                   “(I) A project with a maximum  
5                   net output of less than 1 megawatt.

6                   “(II) A project which satisfies  
7                   the requirements of paragraphs (2)  
8                   and (3).

9                   “(2) PREVAILING WAGE REQUIREMENTS.—

10                   “(A) IN GENERAL.—The taxpayer shall en-  
11                   sure that any laborers and mechanics employed  
12                   by contractors and subcontractors in the alter-  
13                   ation or repair of a facility shall be paid wages  
14                   at rates not less than the prevailing rates for  
15                   construction, alteration, or repair of a similar  
16                   character in the locality as most recently deter-  
17                   mined by the Secretary of Labor, in accordance  
18                   with subchapter IV of chapter 31 of title 40,  
19                   United States Code.

20                   “(B) CORRECTION AND PENALTY RELATED  
21                   TO FAILURE TO SATISFY WAGE REQUIRE-  
22                   MENTS.—

23                   “(i) IN GENERAL.—In the case of any  
24                   taxpayer which fails to satisfy the require-  
25                   ment under subparagraph (A), such tax-

1 payer shall be deemed to have satisfied  
2 such requirement under such subparagraph  
3 with respect to such facility for any year if,  
4 with respect to any laborer or mechanic  
5 who was paid wages at a rate below the  
6 rate described in such subparagraph for  
7 any period during such year, such tax-  
8 payer—

9 “(I) makes payment to such la-  
10 borer or mechanic in an amount equal  
11 to the sum of—

12 “(aa) an amount equal to  
13 the difference between the  
14 amount of wages paid to such la-  
15 borer or mechanic during such  
16 period, and—

17 “(AA) the amount of  
18 wages required to be paid to  
19 such laborer or mechanic  
20 pursuant to such subpara-  
21 graph during such period,  
22 plus

23 “(BB) interest on the  
24 amount determined under  
25 item (aa) at the under-

1 payment rate established  
2 under section 6621 for the  
3 period described in such  
4 item, and

5 “(II) makes payment to the Sec-  
6 retary of a penalty in an amount  
7 equal to the product of—

8 “(aa) \$5,000, multiplied by  
9 “(bb) the total number of la-  
10 borers and mechanics who were  
11 paid wages at a rate below the  
12 rate described in subparagraph  
13 (A) for any period during such  
14 year.

15 “(ii) PENALTY ASSESSED AS TAX.—  
16 The penalty described in clause (i)(II)  
17 shall be treated in the same manner as a  
18 penalty imposed under subchapter B of  
19 chapter 68.

20 “(3) APPRENTICESHIP REQUIREMENTS.—The  
21 requirements described in this subparagraph with re-  
22 spect to any qualified nuclear power facility are as  
23 follows:

24 “(A) LABOR HOURS.—

1           “(i) PERCENTAGE OF TOTAL LABOR  
2           HOURS.—All contractors and subcontrac-  
3           tors engaged in the performance of alter-  
4           ation or repair work on any qualified nu-  
5           clear power facility shall, subject to sub-  
6           paragraph (B), ensure that not less than  
7           the applicable percentage of the total labor  
8           hours of such work be performed by quali-  
9           fied apprentices.

10           “(ii) APPLICABLE PERCENTAGE.—For  
11           purposes of paragraph (1), the applicable  
12           percentage shall be—

13                   “(I) in the case of any applicable  
14                   project the construction of which be-  
15                   gins before January 1, 2023, 5 per-  
16                   cent,

17                   “(II) in the case of any applica-  
18                   ble project the construction of which  
19                   begins after December 31, 2022, and  
20                   before January 1, 2024, 10 percent,  
21                   and

22                   “(III) in the case of any applica-  
23                   ble project the construction of which  
24                   begins after December 31, 2023, 15  
25                   percent.

1           “(B) APPRENTICE TO JOURNEYWORKER  
2           RATIO.—The requirement under subparagraph  
3           (A)(i) shall be subject to any applicable require-  
4           ments for apprentice-to-journeyworker ratios of  
5           the Department of Labor or the applicable  
6           State apprenticeship agency.

7           “(C) PARTICIPATION.—Each contractor  
8           and subcontractor who employs 4 or more indi-  
9           viduals to perform construction, alteration, or  
10          repair work on an applicable project shall em-  
11          ploy 1 or more qualified apprentices to perform  
12          such work.

13          “(D) EXCEPTION.—

14                 “(i) IN GENERAL.—Notwithstanding  
15                 any other provision of this paragraph, this  
16                 paragraph shall not apply in the case of a  
17                 taxpayer who—

18                         “(I) demonstrates a lack of avail-  
19                         ability of qualified apprentices in the  
20                         geographic area of the construction,  
21                         alteration, or repair work, and

22                         “(II) makes a good faith effort to  
23                         comply with the requirements of this  
24                         paragraph.

1           “(ii) GOOD FAITH EFFORT.—For pur-  
2           poses of clause (i), a taxpayer shall be  
3           deemed to have satisfied the requirements  
4           under such paragraph with respect to an  
5           applicable project if such taxpayer has re-  
6           quested qualified apprentices from a reg-  
7           istered apprenticeship program, as defined  
8           in section 3131(e)(3)(B), and such request  
9           has been denied, provided that such denial  
10          is not the result of a refusal by the con-  
11          tractors or subcontractors engaged in the  
12          performance of construction, alteration, or  
13          repair work on such applicable project to  
14          comply with the established standards and  
15          requirements of such apprenticeship pro-  
16          gram.

17          “(E) DEFINITIONS.—For purposes of this  
18          paragraph—

19                 “(i) LABOR HOURS.—The term ‘labor  
20                 hours’ has the meaning given such term in  
21                 section 45(b)(9)(E)(i).

22                 “(ii) QUALIFIED APPRENTICE.—The  
23                 term ‘qualified apprentice’ has the mean-  
24                 ing given such term in section  
25                 45(b)(9)(E)(ii).

1           “(4) REGULATIONS AND GUIDANCE.—The Sec-  
2           retary shall issue such regulations or other guidance  
3           as the Secretary determines necessary or appropriate  
4           to carry out the purposes of this subsection.

5           “(e) TERMINATION.—This section shall not apply to  
6           taxable years beginning after December 31, 2026.”.

7           (b) CONFORMING AMENDMENTS.—

8           (1) Section 38(b) of the Internal Revenue Code  
9           of 1986 is amended—

10           (A) in paragraph (36), by striking “plus”  
11           at the end,

12           (B) in paragraph (37), by striking the pe-  
13           riod at the end and inserting “, plus”, and

14           (C) by adding at the end the following new  
15           paragraph:

16           “(38) the zero-emission nuclear power produc-  
17           tion credit determined under section 45W(a).”.

18           (2) The table of sections for subpart D of part  
19           IV of subchapter A of chapter 1 of such Code is  
20           amended by adding at the end the following new  
21           item:

          “Sec. 45W. Zero-emission nuclear power production credit.”.

22           (c) ELECTIVE PAYMENT OF CREDIT.—Section  
23           6417(b), as added by the preceding provisions of this Act,  
24           is amended by adding at the end the following new para-  
25           graph:

1           “(8) The zero-emission nuclear power produc-  
2           tion credit determined under section 45W.”.

3           (d) EFFECTIVE DATE.—This section shall apply to  
4           electricity produced and sold after December 31, 2021, in  
5           taxable years beginning after such date.

6                           **PART 2—RENEWABLE FUELS**

7           **SEC. 136201. EXTENSION OF INCENTIVES FOR BIODIESEL,**  
8                           **RENEWABLE DIESEL AND ALTERNATIVE**  
9                           **FUELS.**

10           (a) BIODIESEL AND RENEWABLE DIESEL CREDIT.—  
11           Section 40A(g) is amended by striking “December 31,  
12           2022” and inserting “December 31, 2031”.

13           (b) BIODIESEL MIXTURE CREDIT.—

14                   (1) IN GENERAL.—Section 6426(c)(6) is  
15           amended by striking “December 31, 2022” and in-  
16           serting “December 31, 2031”.

17                   (2) FUELS NOT USED FOR TAXABLE PUR-  
18           POSES.—Section 6427(e)(6)(B) is amended by strik-  
19           ing “December 31, 2022” and inserting “December  
20           31, 2031”.

21           (c) ALTERNATIVE FUEL CREDIT.—Section  
22           6426(d)(5) is amended by striking “December 31, 2021”  
23           and inserting “December 31, 2031”.

1 (d) ALTERNATIVE FUEL MIXTURE CREDIT.—Section  
2 6426(e)(3) is amended by striking “December 31, 2021”  
3 and inserting “December 31, 2031”.

4 (e) PAYMENTS FOR ALTERNATIVE FUELS.—Section  
5 6427(e)(6)(C) is amended by striking “December 31,  
6 2021” and inserting “December 31, 2031”.

7 (f) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to fuel sold or used after December  
9 31, 2021.

10 **SEC. 136202. EXTENSION OF SECOND GENERATION**  
11 **BIOFUEL INCENTIVES.**

12 (a) IN GENERAL.—Section 40(b)(6)(J)(i) is amended  
13 by striking “2022” and inserting “2032”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall apply to qualified second generation  
16 biofuel production after December 31, 2021.

17 **SEC. 136203. SUSTAINABLE AVIATION FUEL CREDIT.**

18 (a) IN GENERAL.—Subpart D of part IV of sub-  
19 chapter A of chapter 1 is amended by inserting after sec-  
20 tion 40A the following new section:

21 **“SEC. 40B. SUSTAINABLE AVIATION FUEL CREDIT.**

22 “(a) IN GENERAL.—For purposes of section 38, the  
23 sustainable aviation fuel credit for the taxable year is, with  
24 respect to any sale or use of a qualified mixture which

1 occurs during such taxable year, an amount equal to the  
2 product of—

3 “(1) the number of gallons of sustainable avia-  
4 tion fuel in such mixture, multiplied by

5 “(2) the sum of—

6 “(A) \$1.25, plus

7 “(B) the applicable supplementary amount  
8 with respect to such sustainable aviation fuel.

9 “(b) **APPLICABLE SUPPLEMENTARY AMOUNT.**—For  
10 purposes of this section, the term ‘applicable supple-  
11 mentary amount’ means, with respect to any sustainable  
12 aviation fuel, an amount equal to \$0.01 for each percent-  
13 age point by which the lifecycle greenhouse gas emissions  
14 reduction percentage with respect to such fuel exceeds 50  
15 percent. In no event shall the applicable supplementary  
16 amount determined under this subsection exceed \$0.50.

17 “(c) **QUALIFIED MIXTURE.**—For purposes of this  
18 section, the term ‘qualified mixture’ means a mixture of  
19 sustainable aviation fuel and kerosene if—

20 “(1) such mixture is produced by the taxpayer  
21 in the United States,

22 “(2) such mixture is used by the taxpayer (or  
23 sold by the taxpayer for use) in an aircraft,

24 “(3) such sale or use is in the ordinary course  
25 of a trade or business of the taxpayer, and

1           “(4) the transfer of such mixture to the fuel  
2           tank of such aircraft occurs in the United States.

3           “(d) SUSTAINABLE AVIATION FUEL.—For purposes  
4 of this section, the term ‘sustainable aviation fuel’ means  
5 liquid fuel which—

6           “(1) meets the requirements of—

7           “(A) ASTM International Standard  
8           D7566, or

9           “(B) the Fischer Tropsch provisions of  
10           ASTM International Standard D1655, Annex  
11           A1,

12           “(2) is not derived from palm fatty distillates or  
13           petroleum, and

14           “(3) has been certified in accordance with sub-  
15           section (e) as having a lifecycle greenhouse gas emis-  
16           sions reduction percentage of at least 50 percent.

17           “(e) LIFECYCLE GREENHOUSE GAS EMISSIONS RE-  
18           DUCTION PERCENTAGE.—For purposes of this section—

19           “(1) IN GENERAL.—The term ‘lifecycle green-  
20           house gas emissions reduction percentage’ means,  
21           with respect to any sustainable aviation fuel, the  
22           percentage reduction in lifecycle greenhouse gas  
23           emissions achieved by such fuel in comparison with  
24           petroleum-based jet fuel as stated in a certification  
25           which meets the requirements of paragraphs (2).

1           “(2) CERTIFICATION METHODOLOGY.—A cer-  
2           tification meets the requirements of this paragraph  
3           if such certification (including the methodology and  
4           process of such certification) conforms with all re-  
5           quirements (including requirements related to  
6           traceability and information transmission) of the  
7           most recent Carbon Offsetting and Reduction  
8           Scheme for International Aviation which has been  
9           adopted by the International Civil Aviation Organi-  
10          zation with the agreement of the United States.

11          “(3) OPTION TO OBTAIN CERTIFICATION FROM  
12          SECRETARY.—Not later than 24 months after the  
13          date of the enactment of this section, the Secretary,  
14          after consultation with the Secretary of Energy and  
15          the Administrator of the Environmental Protection  
16          Agency, shall establish procedures pursuant to which  
17          taxpayers may obtain a certification which meets the  
18          requirements of paragraph (2) from the Secretary.

19          “(f) REGISTRATION OF SUSTAINABLE AVIATION  
20          FUEL PRODUCERS.—No credit shall be allowed under this  
21          section with respect to any sustainable aviation fuel unless  
22          the producer of such fuel has entered into an agreement  
23          with the Secretary to provide the Secretary such informa-  
24          tion with respect to such fuel as the Secretary may require  
25          for purposes of carrying out this section.

1           “(g) COORDINATION WITH CREDIT AGAINST EXCISE  
2 TAX.—The amount of the credit determined under this  
3 section with respect to any sustainable aviation fuel shall,  
4 under rules prescribed by the Secretary, be properly re-  
5 duced to take into account any benefit provided with re-  
6 spect to such sustainable aviation fuel solely by reason of  
7 the application of section 6426 or 6427(e).

8           “(h) TERMINATION.—This section shall not apply to  
9 any sale or use after December 31, 2031.”.

10          (b) CREDIT MADE PART OF GENERAL BUSINESS  
11 CREDIT.— Section 38(b) is amended by striking “plus”  
12 at the end of paragraph (37), by striking the period at  
13 the end of paragraph (38) and inserting “, plus”, and by  
14 inserting after paragraph (38) the following new para-  
15 graph:

16                 “(39) the sustainable aviation fuel credit deter-  
17 mined under section 40B.”.

18          (c) COORDINATION WITH BIODIESEL INCENTIVES.—

19                 (1) IN GENERAL.—Section 40A(d)(1) is amend-  
20 ed by inserting “or 40B” after “determined under  
21 section 40”.

22                 (2) CONFORMING AMENDMENT.—Section  
23 40A(f) is amended by striking paragraph (4).

1 (d) SUSTAINABLE AVIATION FUEL ADDED TO CRED-  
2 IT FOR ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE  
3 FUEL MIXTURES.—

4 (1) IN GENERAL.—Section 6426 is amended by  
5 adding at the end the following new subsection:

6 “(k) SUSTAINABLE AVIATION FUEL CREDIT.—

7 “(1) IN GENERAL.—For purposes of this sec-  
8 tion, the sustainable aviation fuel credit for the tax-  
9 able year is, with respect to any sale or use of a  
10 qualified mixture, an amount equal to the product  
11 of—

12 “(A) the number of gallons of sustainable  
13 aviation fuel in such mixture, multiplied by

14 “(B) the sum of—

15 “(i) \$1.25, plus

16 “(ii) the applicable supplementary  
17 amount with respect to such sustainable  
18 aviation fuel.

19 “(2) APPLICABLE SUPPLEMENTARY AMOUNT.—

20 For purposes of this subsection, the term ‘applicable  
21 supplementary amount’ has the meaning given such  
22 term in section 40B(b).

23 “(3) OTHER DEFINITIONS.—Any term used in  
24 this subsection which is also used in section 40B

1 shall have the meaning given such term by section  
2 40B.

3 “(4) REGISTRATION REQUIREMENT.—For pur-  
4 poses of this subsection, rules similar to the rules of  
5 section 40B(f) shall apply.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 6426 is amended—

8 (i) in subsection (a)(1), by striking  
9 “and (e)” and inserting “(e), and (k)”,  
10 and

11 (ii) in subsection (h), by striking  
12 “under section 40 or 40A” and inserting  
13 “under section 40, 40A, or 40B”.

14 (B) Section 6427(e)(6) is amended by  
15 striking the “and” at the end of subparagraph  
16 (C), by striking the period at the end of sub-  
17 paragraph (D) and inserting “, and”, and by  
18 adding at the end the following new subpara-  
19 graph:

20 “(E) any qualified mixture of sustainable  
21 aviation fuel (as defined in section 6426(k)(3))  
22 sold or used after December 31, 2031.”.

23 (e) GUIDANCE.—Under rules prescribed by the Sec-  
24 retary of the Treasury (or the Secretary’s delegate), the  
25 amount of the credit allowed under section 40B of the In-

1 ternal Revenue Code of 1986 (as added by this subsection)  
2 shall be properly reduced to take into account any benefit  
3 provided with respect to sustainable aviation fuel (as de-  
4 fined in such section 40B) by reason of the application  
5 of section 6426 or section 6427(e).

6 (f) AMOUNT OF CREDIT INCLUDED IN GROSS IN-  
7 COME.—Section 87 is amended by striking “and” in para-  
8 graph (1), by striking the period at the end of paragraph  
9 (2) and inserting “, and”, and by adding at the end the  
10 following new paragraph:

11 “(3) the sustainable aviation fuel credit deter-  
12 mined with respect to the taxpayer for the taxable  
13 year under section 40B(a).”.

14 (g) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to fuel sold or used after December  
16 31, 2022.

17 **SEC. 136204. CLEAN HYDROGEN.**

18 (a) CREDIT FOR PRODUCTION OF CLEAN HYDRO-  
19 GEN.—

20 (1) IN GENERAL.—Subpart D of part IV of  
21 subchapter A of chapter 1 is amended by adding at  
22 the end the following new section:

1 **“SEC. 45X. CREDIT FOR PRODUCTION OF CLEAN HYDRO-**  
2 **GEN.**

3 “(a) AMOUNT OF CREDIT.—For purposes of section  
4 38, the clean hydrogen production credit for any taxable  
5 year is an amount equal to the product of—

6 “(1) the applicable amount, multiplied by

7 “(2) the kilograms of qualified clean hydrogen  
8 produced by the taxpayer during such taxable year  
9 at a qualified clean hydrogen production facility dur-  
10 ing the 10-year period beginning on the date such  
11 facility was originally placed in service.

12 “(b) APPLICABLE AMOUNT.—

13 “(1) IN GENERAL.—For purposes of subsection  
14 (a)(1), the applicable amount shall be an amount  
15 equal to the applicable percentage of \$3.00. If any  
16 amount as determined under the preceding sentence  
17 is not a multiple of 0.1 cent, such amount shall be  
18 rounded to the nearest multiple of 0.1 cent.

19 “(2) APPLICABLE PERCENTAGE.—For purposes  
20 of paragraph (1), the term ‘applicable percentage’  
21 means—

22 “(A) in the case of any qualified clean hy-  
23 drogen which is produced through a process  
24 that, as compared to hydrogen produced by  
25 steam-methane reforming, achieves a percent-

1           age reduction in lifecycle greenhouse gas emis-  
2           sions which is less than 75 percent, 20 percent,

3           “(B) in the case of any qualified clean hy-  
4           drogen which is produced through a process  
5           that, as compared to hydrogen produced by  
6           steam-methane reforming, achieves a percent-  
7           age reduction in lifecycle greenhouse gas emis-  
8           sions which is not less than 75 percent and less  
9           than 85 percent, 25 percent,

10          “(C) in the case of any qualified clean hy-  
11          drogen which is produced through a process  
12          that, as compared to hydrogen produced by  
13          steam-methane reforming, achieves a percent-  
14          age reduction in lifecycle greenhouse gas emis-  
15          sions which is not less than 85 percent and less  
16          than 95 percent, 34 percent, and

17          “(D) in the case of any qualified clean hy-  
18          drogen which is produced through a process  
19          that, as compared to hydrogen produced by  
20          steam-methane reforming, achieves a percent-  
21          age reduction in lifecycle greenhouse gas emis-  
22          sions which is not less than 95 percent, 100  
23          percent.

24          “(3) INFLATION ADJUSTMENT.—The \$3.00  
25          amount in paragraph (1) shall be adjusted by multi-

1       plying such amount by the inflation adjustment fac-  
2       tor (as determined under section 45(e)(2), deter-  
3       mined by substituting ‘2020’ for ‘1992’ in subpara-  
4       graph (B) thereof) for the calendar year in which  
5       the qualified clean hydrogen is produced. If any  
6       amount as increased under the preceding sentence is  
7       not a multiple of 0.1 cent, such amount shall be  
8       rounded to the nearest multiple of 0.1 cent.

9       “(c) DEFINITIONS.—For purposes of this section—

10           “(1) LIFECYCLE GREENHOUSE GAS EMIS-  
11           SIONS.—For purposes of this section, the term  
12           ‘lifecycle greenhouse gas emissions’ has the same  
13           meaning given such term under subparagraph (H) of  
14           section 211(o)(1) of the Clean Air Act (42 U.S.C.  
15           7545(o)(1)), as in effect on the date of enactment of  
16           this section, as related to the full fuel lifecycle  
17           through the point of hydrogen production.

18           “(2) QUALIFIED CLEAN HYDROGEN.—

19           “(A) IN GENERAL.—The term ‘qualified  
20           clean hydrogen’ means hydrogen which is pro-  
21           duced through a process that, as compared to  
22           hydrogen produced by steam-methane reform-  
23           ing, achieves a percentage reduction in lifecycle  
24           greenhouse gas emissions which is not less than  
25           40 percent.

1           “(B) ADDITIONAL REQUIREMENTS.—Such  
2 term shall not include any hydrogen unless such  
3 hydrogen is produced—

4           “(i) in the United States (as defined  
5 in section 638(1) or a possession of the  
6 United States (as defined in section  
7 638(2)),

8           “(ii) in the ordinary course of a trade  
9 or business of the taxpayer, and

10           “(iii) for sale or use.

11           “(3) QUALIFIED CLEAN HYDROGEN PRODUC-  
12 TION FACILITY.—

13           “(A) IN GENERAL.—The term ‘qualified  
14 clean hydrogen production facility’ means a fa-  
15 cility owned by the taxpayer which produces  
16 qualified clean hydrogen and which meets the  
17 requirements of subparagraph (B).

18           “(B) TERMINATION.—The term ‘qualified  
19 clean hydrogen production facility’ shall not in-  
20 clude any facility the construction of which be-  
21 gins after December 31, 2028.

22           “(4) STEAM-METHANE REFORMING.—The term  
23 ‘steam-methane reforming’ means a hydrogen pro-  
24 duction process in which high-temperature steam is  
25 used to produce hydrogen from natural gas (other

1 than natural gas derived from biomass (as defined  
2 in section 45K(c)(3) as in effect on the date of the  
3 enactment of this section), without carbon capture  
4 and sequestration.

5 “(d) SPECIAL RULES.—

6 “(1) TREATMENT OF FACILITIES OWNED BY  
7 MORE THAN 1 TAXPAYER.—Rules similar to the  
8 rules section 45(e)(3) shall apply for purposes of  
9 this section.

10 “(2) COORDINATION WITH CREDIT FOR CARBON  
11 OXIDE SEQUESTRATION.—No credit shall be allowed  
12 under this section with respect to any qualified clean  
13 hydrogen produced at a facility which includes prop-  
14 erty for which a credit is allowed under section 45Q.

15 “(e) BASE CREDIT AMOUNT AND INCREASED CREDIT  
16 AMOUNT FOR QUALIFIED CLEAN HYDROGEN PRODUC-  
17 TION FACILITIES.—

18 “(1) IN GENERAL.—In the case of any qualified  
19 clean hydrogen production facility which does not  
20 satisfy the requirements of paragraph (2)(B), the  
21 amount of the credit determined under subsection  
22 (a) shall be 20 percent of such amount (determined  
23 without regard to this sentence).

24 “(2) INCREASED CREDIT FOR CERTAIN FACILI-  
25 TIES MEETING PROJECT REQUIREMENTS.—

1           “(A) IN GENERAL.—In the case of any  
2 qualified facility which meets the project re-  
3 quirements of this paragraph, paragraph (1)  
4 shall not apply.

5           “(B) PROJECT REQUIREMENTS.—A project  
6 meets the requirements of this subparagraph if  
7 it is one of the following:

8           “(i) A project with a maximum net  
9 output of less than 1 megawatt.

10           “(ii) A project which commences con-  
11 struction prior to the date of the enact-  
12 ment of this paragraph.

13           “(iii) A project which satisfies the re-  
14 quirements of paragraphs (3) and (4).

15           “(3) PREVAILING WAGE REQUIREMENTS.—

16           “(A) IN GENERAL.—The requirements de-  
17 scribed in this subparagraph with respect to  
18 any qualified clean hydrogen production facility  
19 are that the taxpayer shall ensure that any la-  
20 borers and mechanics employed by contractors  
21 and subcontractors in—

22           “(i) the construction of such facility,  
23 and

24           “(ii) for the 10-year period beginning  
25 on the date the facility was originally

1 placed in service, the alteration or repair of  
2 such facility,  
3 shall be paid wages at rates not less than the  
4 prevailing rates for construction, alteration, or  
5 repair of a similar character in the locality as  
6 most recently determined by the Secretary of  
7 Labor, in accordance with subchapter IV of  
8 chapter 31 of title 40, United States Code.

9 “(B) CORRECTION AND PENALTY RELATED  
10 TO FAILURE TO SATISFY WAGE REQUIRE-  
11 MENTS.—Rules similar to the rules of section  
12 45(b)(8)(B) shall apply for purposes of this  
13 subparagraph.

14 “(4) APPRENTICESHIP REQUIREMENTS.—Rules  
15 similar to the rules of section 45(b)(9) shall apply  
16 for purposes of this paragraph.

17 “(5) REGULATIONS AND GUIDANCE.—The Sec-  
18 retary shall issue such regulations or other guidance  
19 as the Secretary determines necessary or appropriate  
20 to carry out the purposes of this subsection.

21 “(f) REGULATIONS.—Not later than 1 year after the  
22 date of enactment of this section, the Secretary, after con-  
23 sultation with the Secretary of Energy and the Adminis-  
24 trator of the Environmental Protection Agency, shall issue

1 regulations or other guidance to carry out the purposes  
2 of this section, including regulations or other guidance—

3 “(1) for determining lifecycle greenhouse gas  
4 emissions, and

5 “(2) which require verification by unrelated  
6 third parties of the production and sale or use of  
7 qualified clean hydrogen with respect to which credit  
8 is otherwise allowed under this section.”.

9 (2) ELECTIVE PAYMENT OF CREDIT.—Section  
10 6417(b), as added by the preceding provisions of  
11 this Act, is amended by adding at the end the fol-  
12 lowing new paragraph:

13 “(9) The credit for production of clean hydro-  
14 gen determined under section 45X.”.

15 (3) CONFORMING AMENDMENTS.—

16 (A) Section 38(b) is amended—

17 (i) in paragraph (38), by striking  
18 “plus” at the end,

19 (ii) in paragraph (39), by striking the  
20 period at the end and inserting “, plus”,  
21 and

22 (iii) by adding at the end the fol-  
23 lowing new paragraph:

24 “(40) the clean hydrogen production credit de-  
25 termined under section 45X(a).”.

1 (B) The table of sections for subpart D of  
2 part IV of subchapter A of chapter 1 amended  
3 by adding at the end the following new item:

“Sec. 45X. Credit for production of clean hydrogen.”.

4 (4) EFFECTIVE DATE.—The amendments made  
5 by this subsection shall apply to hydrogen placed in  
6 service after December 31, 2021.

7 (b) CREDIT FOR ELECTRICITY PRODUCED FROM RE-  
8 NEWABLE RESOURCES ALLOWED IF ELECTRICITY IS  
9 USED TO PRODUCE CLEAN HYDROGEN.—

10 (1) IN GENERAL.—Section 45(e) is amended by  
11 adding at the end the following new paragraph:

12 “(13) SPECIAL RULE FOR ELECTRICITY USED  
13 AT A QUALIFIED CLEAN HYDROGEN PRODUCTION  
14 FACILITY.—Electricity produced by the taxpayer  
15 shall be treated as sold by such taxpayer to an unre-  
16 lated person during the taxable year if such elec-  
17 tricity is used during such taxable year by the tax-  
18 payer or a person related to the taxpayer at a quali-  
19 fied clean hydrogen production facility (as defined in  
20 section 45X(d)(3)) to produce qualified clean hydro-  
21 gen (as defined in section 45X(d)(2)) during the 10  
22 year period after such facility is placed in service.  
23 The Secretary shall issue such regulations or other  
24 guidance as the Secretary determines appropriate to  
25 carry out the purposes of this paragraph, including

1 regulations or other guidance to require verification  
2 by unrelated third parties of the production and use  
3 of electricity to which this paragraph applies.”.

4 (2) EFFECTIVE DATE.—The amendment made  
5 by this subsection shall apply to electricity produced  
6 after December 31, 2021.

7 (c) ELECTION TO TREAT CLEAN HYDROGEN PRO-  
8 Duction FACILITIES AS ENERGY PROPERTY.—

9 (1) IN GENERAL.—Section 48(a) is amended by  
10 adding at the end the following new paragraph:

11 “(8) ELECTION TO TREAT CLEAN HYDROGEN  
12 PRODUCTION FACILITIES AS ENERGY PROPERTY.—

13 “(A) IN GENERAL.—In the case of any  
14 qualified property (as defined in paragraph  
15 (5)(D)) which is part of a specified clean hydro-  
16 gen production facility—

17 “(i) such property shall be treated as  
18 energy property for purposes of this sec-  
19 tion, and

20 “(ii) the energy percentage with re-  
21 spect to such property is—

22 “(I) in the case of a facility  
23 which is designed and reasonably ex-  
24 pected to produce qualified clean hy-  
25 drogen which is described in a sub-

1 paragraph (A) of section 45X(b)(2), 6  
2 percent,

3 “(II) in the case of a facility  
4 which is designed and reasonably ex-  
5 pected to produce qualified clean hy-  
6 drogen which is described in a sub-  
7 paragraph (B) of such section, 7.5  
8 percent,

9 “(III) in the case of a facility  
10 which is designed and reasonably ex-  
11 pected to produce qualified clean hy-  
12 drogen which is described in a sub-  
13 paragraph (C) of such section, 10.2  
14 percent, and

15 “(IV) in the case of a facility  
16 which is designed and reasonably ex-  
17 pected to produce qualified clean hy-  
18 drogen which is described in a sub-  
19 paragraph (D) of such section, 30  
20 percent.

21 “(B) DENIAL OF PRODUCTION CREDIT.—  
22 No credit shall be allowed under section 45X  
23 for any taxable year with respect to any speci-  
24 fied clean hydrogen production facility.

1           “(C) SPECIFIED CLEAN HYDROGEN PRO-  
2           DUCTION FACILITY.—For purposes of this para-  
3           graph, the term ‘specified clean hydrogen pro-  
4           duction facility’ means any qualified clean hy-  
5           drogen production facility (as defined in section  
6           45X(d)(3)) or any portion of such facility—

7                   “(i) which is placed in service after  
8                   December 31, 2021, and

9                   “(ii) with respect to which—

10                           “(I) no credit has been allowed  
11                           under section 45X or 45Q, and

12                           “(II) the taxpayer makes an ir-  
13                           revocable election to have this para-  
14                           graph apply.

15           “(D) QUALIFIED CLEAN HYDROGEN.—For  
16           purposes of this paragraph, the term ‘qualified  
17           clean hydrogen’ has the meaning given such  
18           term by section 45X(d)(2).

19           “(E) REGULATIONS.—The Secretary, after  
20           consultation with the Secretary of Energy and  
21           the Administrator of the Environmental Protec-  
22           tion Agency, shall issue such regulations or  
23           other guidance as the Secretary determines nec-  
24           essary or appropriate to carry out the purposes

1 of this section, including regulations or other  
2 guidance which—

3 “(i) requires verification by one or  
4 more unrelated third parties that the facil-  
5 ity produces hydrogen which is consistent  
6 with the hydrogen that such facility was  
7 designed and expected to produce under  
8 subparagraph (A)(ii), and

9 “(ii) recaptures so much of any credit  
10 allowed under this section as exceeds the  
11 amount of the credit which would have  
12 been allowed if the expected production  
13 were consistent with the actual verified  
14 production (or all of the credit so allowed  
15 in the absence of such verification).”.

16 (2) EFFECTIVE DATE.—The amendments made  
17 by this section shall apply to periods after December  
18 31, 2021, under rules similar to the rules of section  
19 48(m) of the Internal Revenue Code of 1986 (as in  
20 effect on the day before the date of the enactment  
21 of the Revenue Reconciliation Act of 1990).

22 (d) TERMINATION OF EXCISE TAX CREDIT FOR HY-  
23 DROGEN.—

24 (1) IN GENERAL.—Section 6426(d)(2) is  
25 amended by striking subparagraph (D) and by re-

1 designating subparagraphs (E), (F), and (G) as sub-  
2 paragraphs (D), (E), and (F), respectively.

3 (2) CONFORMING AMENDMENT.—Section  
4 6426(e)(2) is amended by striking “(F)” and insert-  
5 ing “(E)”.

6 (3) EFFECTIVE DATE.—The amendments made  
7 by this subsection shall apply to fuel sold or used  
8 after December 31, 2021.

### 9 **PART 3—GREEN ENERGY AND EFFICIENCY**

#### 10 **INCENTIVES FOR INDIVIDUALS**

##### 11 **SEC. 136301. EXTENSION, INCREASE, AND MODIFICATIONS** 12 **OF NONBUSINESS ENERGY PROPERTY CRED-** 13 **IT.**

14 (a) EXTENSION OF CREDIT.—Section 25C(g)(2) is  
15 amended by striking “December 31, 2021” and inserting  
16 “December 31, 2031”.

17 (b) INCREASE IN CREDIT PERCENTAGE FOR QUALI-  
18 FIED ENERGY EFFICIENCY IMPROVEMENTS.—Section  
19 25C(a)(1) is amended by striking “10 percent” and insert-  
20 ing “30 percent”.

21 (c) APPLICATION OF ANNUAL LIMITATION IN LIEU  
22 OF LIFETIME LIMITATION.—Section 25C(b) is amended  
23 to read as follows:

24 “(b) LIMITATIONS.—

1           “(1) IN GENERAL.—The credit allowed under  
2 this section with respect to any taxpayer for any tax-  
3 able year shall not exceed \$1,200.

4           “(2) WINDOWS.—The credit allowed under this  
5 section by reason of subsection (a)(1) with respect to  
6 any taxpayer for any taxable year shall not exceed—

7               “(A) in the aggregate with respect to all  
8 exterior windows and skylights which are not  
9 described in subparagraph (B), \$200,

10               “(B) in the aggregate with respect to all  
11 exterior windows and skylights which meet the  
12 standard for the most efficient certification  
13 under applicable Energy Star program require-  
14 ments, the excess (if any) of \$600 over the  
15 credit so allowed with respect to all windows  
16 and skylights taken into account under sub-  
17 paragraph (A).

18           “(3) DOORS.—The credit allowed under this  
19 section by reason of subsection (a)(1) with respect to  
20 any taxpayer for any taxable year shall not exceed—

21               “(A) \$250 in the case of any exterior door,  
22 and

23               “(B) \$500 in the aggregate with respect to  
24 all exterior doors.”.

1 (d) MODIFICATIONS RELATED TO QUALIFIED EN-  
2 ERGY EFFICIENCY IMPROVEMENTS.—

3 (1) STANDARDS FOR ENERGY EFFICIENT  
4 BUILDING ENVELOPE COMPONENTS.—Section  
5 25C(e)(2) is amended by striking “meets—” and all  
6 that follows through the period at the end and in-  
7 serting the following: “meets—

8 “(A) in the case of an exterior window, a  
9 skylight, or an exterior door, applicable Energy  
10 Star program requirements, and

11 “(B) in the case of any other component,  
12 the prescriptive criteria for such component es-  
13 tablished by the most recent International En-  
14 ergy Conservation Code standard in effect as of  
15 the beginning of the calendar year which is 2  
16 years prior to the calendar year in which such  
17 component is placed in service.”.

18 (2) ROOFS NOT TREATED AS BUILDING ENVE-  
19 LOPE COMPONENTS.—Section 25C(e)(3) is amended  
20 by adding “and” at the end of subparagraph (B), by  
21 striking “, and” at the end of subparagraph (C) and  
22 inserting a period, and by striking subparagraph  
23 (D).

24 (3) AIR BARRIER INSULATION ADDED TO DEFI-  
25 NITION OF BUILDING ENVELOPE COMPONENT.—Sec-

1       tion 25C(c)(3)(A) is amended by striking “material  
2       or system” and inserting “material or system, in-  
3       cluding air sealing material or system,”.

4       (e) MODIFICATION OF RESIDENTIAL ENERGY PROP-  
5       ERTY EXPENDITURES.—Section 25C(d) is amended to  
6       read as follows:

7       “(d) RESIDENTIAL ENERGY PROPERTY EXPENDI-  
8       TURES.—For purposes of this section—

9               “(1) IN GENERAL.—The term ‘residential en-  
10       ergy property expenditures’ means expenditures  
11       made by the taxpayer for qualified energy property  
12       which is—

13               “(A) installed on or in connection with a  
14       dwelling unit located in the United States and  
15       used as a residence by the taxpayer, and

16               “(B) originally placed in service by the tax-  
17       payer.

18       Such term includes expenditures for labor costs  
19       properly allocable to the onsite preparation, assem-  
20       bly, or original installation of the property.

21               “(2) QUALIFIED ENERGY PROPERTY.—The  
22       term ‘qualified energy property’ means any of the  
23       following which meet or exceed the highest efficiency  
24       tier (not including any advanced tier) established by  
25       the Consortium for Energy Efficiency which is in ef-

1       fect as of the beginning of the calendar year in  
2       which the property is placed in service:

3               “(A) An electric heat pump water heater.

4               “(B) An electric heat pump.

5               “(C) A central air conditioner.

6               “(D) A natural gas, propane, or oil water  
7       heater.

8               “(E) A natural gas, propane, or oil furnace  
9       or hot water boiler.”.

10       (f) HOME ENERGY AUDITS.—

11               (1) IN GENERAL.—Section 25C(a) is amended  
12       by striking “and” at the end of paragraph (1), by  
13       striking the period at the end of paragraph (2) and  
14       inserting “, and”, and by adding at the end the fol-  
15       lowing new paragraph:

16               “(3) 30 percent of the amount paid or incurred  
17       by the taxpayer during the taxable year for home en-  
18       ergy audits.”.

19               (2) LIMITATION.—Section 25C(b), as amended  
20       by subsection (c), is amended adding at the end the  
21       following new paragraph:

22               “(5) HOME ENERGY AUDITS.—

23               “(A) DOLLAR LIMITATION.—The amount  
24       of the credit allowed under this section by rea-  
25       son of subsection (a)(3) shall not exceed \$150.

1           “(B) SUBSTANTIATION REQUIREMENT.—

2           No credit shall be allowed under this section by  
3           reason of subsection (a)(3) unless the taxpayer  
4           includes with the taxpayer’s return of tax such  
5           information or documentation as the Secretary  
6           may require.”.

7           (3) HOME ENERGY AUDITS.—

8           (A) IN GENERAL.—Section 25C, as amend-  
9           ed by subsections (a), is amended by redesign-  
10          nating subsections (e), (f), and (g), as sub-  
11          sections (f), (g), and (h), respectively, and by  
12          inserting after subsection (d) the following new  
13          subsection:

14          “(e) HOME ENERGY AUDITS.—For purposes of this  
15          section, the term ‘home energy audit’ means an inspection  
16          and written report with respect to a dwelling unit located  
17          in the United States and owned or used by the taxpayer  
18          as the taxpayer’s principal residence (within the meaning  
19          of section 121) which—

20                 “(1) identifies the most significant and cost-ef-  
21                 fective energy efficiency improvements with respect  
22                 to such dwelling unit, including an estimate of the  
23                 energy and cost savings with respect to each such  
24                 improvement, and

1           “(2) is conducted and prepared by a home en-  
2           ergy auditor that meets the certification or other re-  
3           quirements specified by the Secretary (after con-  
4           sultation with the Secretary of Energy and the Ad-  
5           ministrator of the Environmental Protection Agency  
6           and not later than 180 days after the date of the en-  
7           actment of this subsection) in regulations or other  
8           guidance.”.

9           (B) CONFORMING AMENDMENT.—Section  
10           1016(a)(33) is amended by striking “section  
11           25C(f)” and inserting “section 25C(g)”.

12           (4) LACK OF SUBSTANTIATION TREATED AS  
13           MATHEMATICAL OR CLERICAL ERROR.—Section  
14           6213(g)(2) is amended—

15           (A) in subparagraph (P), by striking  
16           “and” at the end,

17           (B) in subparagraph (Q), by striking the  
18           period at the end and inserting “, and”, and

19           (C) by adding at the end the following:

20           “(R) an omission of correct information or  
21           documentation required under section  
22           25C(b)(5)(B) (relating to home energy audits)  
23           to be included on a return.”.

24           (g) IDENTIFICATION NUMBER REQUIREMENT.—

1           (1) IN GENERAL.—Section 25C, as amended by  
2           subsections (a) and (f), is amended by redesignating  
3           subsection (h) as subsection (i) and by inserting  
4           after subsection (g) the following new subsection:

5           “(h) PRODUCT IDENTIFICATION NUMBER REQUIRE-  
6           MENT.—

7           “(1) IN GENERAL.—No credit shall be allowed  
8           under subsection (a) with respect to any item of  
9           specified property placed in service after December  
10          31, 2023, unless—

11                   “(A) such item is produced by a qualified  
12                   manufacturer, and

13                   “(B) the taxpayer includes the qualified  
14                   product identification number of such item on  
15                   the return of tax for the taxable year.

16          “(2) QUALIFIED PRODUCT IDENTIFICATION  
17          NUMBER.—For purposes of this section, the term  
18          ‘qualified product identification number’ means, with  
19          respect to any item of specified property, the prod-  
20          uct identification number assigned to such item by  
21          the qualified manufacturer pursuant to the method-  
22          ology referred to in paragraph (3).

23          “(3) QUALIFIED MANUFACTURER.—

24                   “(A) IN GENERAL.—For purposes of this  
25                   section, the term ‘qualified manufacturer’

1 means any manufacturer of specified property  
2 which enters into an agreement with the Sec-  
3 retary which provides that such manufacturer  
4 will—

5 “(i) assign a product identification  
6 number to each item of specified property  
7 produced by such manufacturer utilizing a  
8 methodology that will ensure that such  
9 number (including any alphanumeric) is  
10 unique to each such item (by utilizing  
11 numbers or letters which are unique to  
12 such manufacturer or by such other meth-  
13 od as the Secretary may provide),

14 “(ii) label such item with such num-  
15 ber in such manner as the Secretary may  
16 provide, and

17 “(iii) make periodic written reports to  
18 the Secretary (at such times and in such  
19 manner as the Secretary may provide) of  
20 the product identification numbers so as-  
21 signed and including such information as  
22 the Secretary may require with respect to  
23 the item of specified property to which  
24 such number was so assigned.

1           “(B) CONSULTATION WITH DOE AND  
2           EPA.—The Secretary, after consultation with  
3           the Secretary of Energy and the Administrator  
4           of the Environmental Protection Agency, shall  
5           establish procedures for manufacturers and  
6           consumers to meet the requirements for product  
7           identification numbers under subparagraph (A).

8           “(4) SPECIFIED PROPERTY.—For purposes of  
9           this subsection, the term ‘specified property’ means  
10          any qualified energy property and any property de-  
11          scribed in subparagraph (B) or (C) of subsection  
12          (c)(3).”.

13          (2) OMISSION OF CORRECT PRODUCT IDENTI-  
14          FICATION NUMBER TREATED AS MATHEMATICAL OR  
15          CLERICAL ERROR.—Section 6213(g)(2), as amended  
16          by the preceding provisions of this Act, is amend-  
17          ed—

18                 (A) in subparagraph (Q), by striking  
19                 “and” at the end,

20                 (B) in subparagraph (R), by striking the  
21                 period at the end and inserting “, and”, and

22                 (C) by adding at the end the following:

23                         “(S) an omission of a correct product iden-  
24                         tification number required under section 25C(h)

1 (relating to credit for nonbusiness energy prop-  
2 erty) to be included on a return.”.

3 (h) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as otherwise pro-  
5 vided by this subsection, the amendments made by  
6 this section shall apply to property placed in service  
7 after December 31, 2021.

8 (2) HOME ENERGY AUDITS.—The amendments  
9 made by subsection (f) shall apply to amounts paid  
10 or incurred after December 31, 2021.

11 (3) IDENTIFICATION NUMBER REQUIREMENT.—  
12 The amendments made subsection (g) shall apply to  
13 property placed in service after December 31, 2023.

14 **SEC. 136302. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

15 (a) EXTENSION OF CREDIT.—

16 (1) IN GENERAL.—Section 25D(h) is amended  
17 by striking “December 31, 2023” and inserting  
18 “December 31, 2033”.

19 (2) APPLICATION OF PHASEOUT.—Section  
20 25D(g) is amended—

21 (A) by striking “before January 1, 2023”  
22 in paragraph (2) and inserting “before January  
23 1, 2022”,

24 (B) by striking “and” at the end of para-  
25 graph (2),

1 (C) by redesignating paragraph (3) as  
2 paragraph (5) and by inserting after paragraph  
3 (2) the following new paragraphs:

4 “(3) in the case of property placed in service  
5 after December 31, 2021, and before January 1,  
6 2032, 30 percent,

7 “(4) in the case of property placed in service  
8 after December 31, 2031, and before January 1,  
9 2033, 26 percent, and”, and

10 (D) by striking “December 31, 2022, and  
11 before January 1, 2024” in paragraph (5) (as  
12 so redesignated) and inserting “December 31,  
13 2032, and before January 1, 2034”.

14 (b) RESIDENTIAL ENERGY EFFICIENT PROPERTY  
15 CREDIT FOR BATTERY STORAGE TECHNOLOGY.—

16 (1) IN GENERAL.—Section 25D(a) is amended  
17 by striking “and” at the end of paragraph (5) and  
18 by inserting after paragraph (6) the following new  
19 paragraph:

20 “(7) the qualified battery storage technology ex-  
21 penditures,”.

22 (2) QUALIFIED BATTERY STORAGE TECH-  
23 NOLOGY EXPENDITURE.—Section 25D(d) is amend-  
24 ed by adding at the end the following new para-  
25 graph:

1           “(7) QUALIFIED BATTERY STORAGE TECH-  
2           NOLOGY EXPENDITURE.—The term ‘qualified bat-  
3           tery storage technology expenditure’ means an ex-  
4           penditure for battery storage technology which—

5                   “(A) is installed in connection with a  
6           dwelling unit located in the United States and  
7           used as a residence by the taxpayer, and

8                   “(B) has a capacity of not less than 3 kilo-  
9           watt hours.”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to expenditures made after Decem-  
12 ber 31, 2021.

13 **SEC. 136303. ENERGY EFFICIENT COMMERCIAL BUILDINGS**  
14 **DEDUCTION.**

15          (a) PLACED IN SERVICE REQUIREMENT.—Section  
16 179D(c)(2) is amended by striking “the date that is 2  
17 years before the date that construction of such property  
18 begins” and inserting “the date that is 2 years before the  
19 date such property is placed into service”.

20          (b) TEMPORARY INCREASE IN DEDUCTION, ETC.—  
21 Section 179D is amended by adding at the end the fol-  
22 lowing:

23           “(i) TEMPORARY RULES.—

24                   “(1) PERIOD OF APPLICATION.—The provisions  
25           of this subsection shall apply only to taxable years

1 beginning after December 31, 2021, and before Jan-  
2 uary 1, 2032.

3 “(2) MODIFICATION OF EFFICIENCY STAND-  
4 ARD.—Subsection (c)(1)(D) shall be applied by sub-  
5 stituting ‘25’ for ‘50’.

6 “(3) MAXIMUM AMOUNT OF DEDUCTION.—

7 “(A) IN GENERAL.—The deduction under  
8 subsection (a) with respect to any building for  
9 any taxable year shall not exceed the excess (if  
10 any) of—

11 “(i) the product of—

12 “(I) the applicable dollar value,  
13 and

14 “(II) the square footage of the  
15 building, over

16 “(ii) the aggregate amount of the de-  
17 ductions under subsection (a) and para-  
18 graph (6) with respect to the building for  
19 the 3 taxable years immediately preceding  
20 such taxable year (or, in the case of any  
21 such deduction allowable to a person other  
22 than the taxpayer, for any taxable year  
23 ending during the 4-taxable-year period  
24 ending with such taxable year).

1           “(B) APPLICABLE DOLLAR VALUE.—For  
2 purposes of paragraph (3)(A)(i), the applicable  
3 dollar value shall be an amount equal to \$2.50  
4 increased (but not above \$5.00) by \$0.10 for  
5 each percentage point by which the total annual  
6 energy and power costs for the building are cer-  
7 tified to be reduced by a percentage greater  
8 than 25 percent.

9           “(C) APPLICATION OF INFLATION ADJUST-  
10 MENT.—Subsection (g) shall be applied—

11                   “(i) by substituting ‘2022’ for ‘2020’,

12                   “(ii) by substituting ‘subsection  
13 (i)(3)(B)’ for ‘subsection (b) or subsection  
14 (d)(1)(A)’, and

15                   “(iii) by substituting ‘2021’ for  
16 ‘2019’.

17           “(D) LIMITATION TO APPLY IN LIEU OF  
18 CURRENT LIMITATION AND PARTIAL ALLOW-  
19 ANCE.—Subsections (b) and (d)(1) shall not  
20 apply.

21           “(4) BASE CREDIT AMOUNT AND INCREASED  
22 CREDIT AMOUNT FOR CERTAIN PROPERTY.—

23           “(A) IN GENERAL.—In the case of any  
24 property which does not satisfy the require-  
25 ments of subparagraph (B), paragraph (3)(B)

1 shall be applied by substituting ‘\$0.50’ for  
2 ‘\$2.50’, ‘\$.02’ for ‘\$.10’, and ‘\$1.00’ for  
3 ‘\$5.00’.

4 “(B) INCREASED CREDIT FOR CERTAIN  
5 PROPERTY MEETING PROJECT REQUIRE-  
6 MENTS.—

7 “(i) PROJECT REQUIREMENTS.—A  
8 project meets the requirements of this sub-  
9 paragraph if it is one of the following:

10 “(I) A project which commences  
11 construction prior to the date of the  
12 enactment of this paragraph.

13 “(II) A project which commences  
14 construction after the date of enact-  
15 ment of this paragraph and satisfies  
16 the requirements of paragraphs (5)  
17 and (6).

18 “(III) A project with respect to  
19 which initial construction is completed  
20 and building modifications are made  
21 as part of a qualified retrofit plan,  
22 and which satisfies paragraphs (5)  
23 and (6).

24 “(5) PREVAILING WAGE REQUIREMENTS.—

1           “(A) IN GENERAL.—The requirements de-  
2           scribed in this subparagraph with respect to  
3           any project are that the taxpayer shall ensure  
4           that any laborers and mechanics employed by  
5           contractors and subcontractors in the construc-  
6           tion of any property or with respect to building  
7           modifications made as part of a qualified ret-  
8           rofit plan shall be paid wages at rates not less  
9           than the prevailing rates for construction, alter-  
10          ation, or repair of a similar character in the lo-  
11          cality as most recently determined by the Sec-  
12          retary of Labor, in accordance with subchapter  
13          IV of chapter 31 of title 40, United States  
14          Code.

15           “(B) CORRECTION AND PENALTY RELATED  
16           TO FAILURE TO SATISFY WAGE REQUIRE-  
17           MENTS.—In the case of any taxpayer which  
18           fails to satisfy the requirement under subpara-  
19           graph (A) with respect to any project or any  
20           building modifications made as part of a quali-  
21           fied retrofit plan, rules similar to the rules of  
22           section 45(b)(8)(B) shall apply for purposes of  
23           this paragraph.

1           “(6) APPRENTICESHIP REQUIREMENTS.—The  
2 requirements described in this subparagraph with re-  
3 spect to any property are as follows:

4           “(A) LABOR HOURS.—

5           “(i) PERCENTAGE OF TOTAL LABOR  
6 HOURS.—All contractors and subcontractors engaged in the performance of construction of a project or building modifications made as part of a qualified retrofit plan shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.  
14

15           “(ii) APPLICABLE PERCENTAGE.—For  
16 purposes of paragraph (1), the applicable  
17 percentage shall be—

18           “(I) in the case of any applicable  
19 project the construction of which begins before January 1, 2023, 5 per-  
20 cent,  
21

22           “(II) in the case of any applica-  
23 ble project the construction of which  
24 begins after December 31, 2022, and

1 before January 1, 2024, 10 percent,  
2 and

3 “(III) in the case of any applica-  
4 ble project the construction of which  
5 begins after December 31, 2023, 15  
6 percent.

7 “(B) APPRENTICE TO JOURNEYWORKER  
8 RATIO.—The requirement under subparagraph  
9 (A)(i) shall be subject to any applicable require-  
10 ments for apprentice-to-journeyworker ratios of  
11 the Department of Labor or the applicable  
12 State apprenticeship agency.

13 “(C) PARTICIPATION.—Each contractor  
14 and subcontractor who employs 4 or more indi-  
15 viduals to perform construction, alteration, or  
16 repair work on an applicable project shall em-  
17 ploy 1 or more qualified apprentices to perform  
18 such work.

19 “(D) EXCEPTION.—

20 “(i) IN GENERAL.—Notwithstanding  
21 any other provision of this paragraph, this  
22 paragraph shall not apply in the case of a  
23 taxpayer who—

24 “(I) demonstrates a lack of avail-  
25 ability of qualified apprentices in the

1 geographic area of the construction,  
2 alteration, or repair work, and

3 “(II) makes a good faith effort to  
4 comply with the requirements of this  
5 paragraph.

6 “(ii) GOOD FAITH EFFORT.—For pur-  
7 poses of clause (i), a taxpayer shall be  
8 deemed to have satisfied the requirements  
9 under such paragraph with respect to an  
10 applicable project if such taxpayer has re-  
11 quested qualified apprentices from a reg-  
12 istered apprenticeship program, as defined  
13 in section 3131(e)(3)(B), and such request  
14 has been denied, provided that such denial  
15 is not the result of a refusal by the con-  
16 tractors or subcontractors engaged in the  
17 performance of construction, alteration, or  
18 repair work on such applicable project to  
19 comply with the established standards and  
20 requirements of such apprenticeship pro-  
21 gram.

22 “(E) DEFINITIONS.—For purposes of this  
23 paragraph—

1           “(i) LABOR HOURS.—The term ‘labor  
2           hours’ has the meaning given such term in  
3           section 45(b)(9)(E)(i).

4           “(ii) QUALIFIED APPRENTICE.—The  
5           term ‘qualified apprentice’ has the mean-  
6           ing given such term in section  
7           45(b)(9)(E)(ii).

8           “(7) ALLOCATION OF DEDUCTION BY CERTAIN  
9           TAX-EXEMPT ENTITIES.—

10           “(A) IN GENERAL.—A specified tax-ex-  
11           empt entity shall be treated in the same manner  
12           as a Federal, State, or local government for  
13           purposes of applying subsection (d)(4).

14           “(B) SPECIFIED TAX-EXEMPT ENTITY.—  
15           For purposes of this paragraph, the term ‘spec-  
16           ified tax-exempt entity’ means—

17           “(i) the United States, any State or  
18           political subdivision thereof, any possession  
19           of the United States, or any agency or in-  
20           strumentality of any of the foregoing,

21           “(ii) any Indian tribal government  
22           (within the meaning of section 139E), and

23           “(iii) any organization exempt from  
24           tax imposed by this chapter.

1           “(8) ALTERNATIVE DEDUCTION FOR ENERGY  
2 EFFICIENT RETROFIT BUILDING PROPERTY.—

3           “(A) IN GENERAL.—In the case of a tax-  
4 payer which elects (at such time and in such  
5 manner as the Secretary, after consultation  
6 with the administrator of the Environmental  
7 Protection Agency, may provide) the application  
8 of this paragraph with respect to any qualified  
9 building, there shall be allowed as a deduction  
10 for the taxable year which includes the date of  
11 the qualifying final certification with respect to  
12 the qualified retrofit plan of such building, an  
13 amount equal to the lesser of—

14           “(i) the excess described in paragraph  
15 (3) (determined by substituting ‘energy  
16 usage intensity’ for ‘total annual energy  
17 and power costs’ in subparagraph (B)  
18 thereof), or

19           “(ii) the aggregate adjusted basis (de-  
20 termined after taking into account all ad-  
21 justments with respect to such taxable year  
22 other than the reduction under subsection  
23 (e)) of energy efficient retrofit building  
24 property placed in service by the taxpayer  
25 pursuant to such qualified retrofit plan.

1           “(B) QUALIFIED RETROFIT PLAN.—For  
2 purposes of this paragraph, the term ‘qualified  
3 retrofit plan’ means a written plan prepared by  
4 a qualified professional which specifies modi-  
5 fications to a building which, in the aggregate,  
6 are expected to reduce such building’s energy  
7 usage intensity by 25 percent or more in com-  
8 parison to the baseline energy usage intensity of  
9 such building. Such plan shall provide for a  
10 qualified professional to—

11           “(i) as of any date during the 1-year  
12 period ending on the date of the first cer-  
13 tification described in clause (ii), certify  
14 the energy usage intensity of such building  
15 as of such date,

16           “(ii) certify the status of property in-  
17 stalled pursuant to such plan as meeting  
18 the requirements of clauses (ii) and (iii)  
19 subparagraph (C), and

20           “(iii) as of any date that is more than  
21 1 year after completion of the plan, certify  
22 the energy usage intensity of such building  
23 as of such date.

24           “(C) ENERGY EFFICIENT RETROFIT  
25 BUILDING PROPERTY.—For purposes of this

1 paragraph, the term ‘energy efficient retrofit  
2 building property’ means property—

3 “(i) with respect to which depreciation  
4 (or amortization in lieu of depreciation) is  
5 allowable,

6 “(ii) which is installed on or in any  
7 qualified building,

8 “(iii) which is installed as part of—

9 “(I) the interior lighting systems,

10 “(II) the heating, cooling, ven-  
11 tilation, and hot water systems, or

12 “(III) the building envelope, and

13 “(iv) which is certified in accordance  
14 with subparagraph (B)(ii) as meeting the  
15 requirements of clauses (ii) and (iii).

16 “(D) QUALIFIED BUILDING.—For pur-  
17 poses of this paragraph, the term ‘qualified  
18 building’ means any building which—

19 “(i) is located in the United States,  
20 and

21 “(ii) was originally placed in service  
22 not less than 5 years before the establish-  
23 ment of the qualified retrofit plan with re-  
24 spect to such building.

1           “(E) QUALIFYING FINAL CERTIFI-  
2           CATION.—For purposes of this paragraph, the  
3           term ‘qualifying final certification’ means, with  
4           respect to any qualified retrofit plan, the certifi-  
5           cation described in subparagraph (B)(iii) if the  
6           energy usage intensity certified in such certifi-  
7           cation is not more than 75 percent of the base-  
8           line energy usage intensity of the building.

9           “(F) BASELINE ENERGY USAGE INTEN-  
10          SITY.—

11           “(i) IN GENERAL.—The term ‘baseline  
12          energy usage intensity’ means the energy  
13          usage intensity certified under subpara-  
14          graph (B)(i), as adjusted to take into ac-  
15          count weather as compared to the energy  
16          usage intensity determined under subpara-  
17          graph (B)(iii)(I).

18           “(ii) DETERMINATION OF ADJUST-  
19          MENT.—For purposes of clause (i), the ad-  
20          justments described in such clause shall be  
21          determined in such manner as the Sec-  
22          retary, after consultation with the Admin-  
23          istrator of the Environmental Protection  
24          Agency, may provide.

1           “(G) OTHER DEFINITIONS.—For purposes  
2 of this paragraph—

3           “(i) ENERGY USAGE INTENSITY.—The  
4 term ‘energy usage intensity’ means the  
5 site energy usage intensity determined in  
6 accordance with such regulations or other  
7 guidance as the Secretary, after consulta-  
8 tion with the Administrator of the Envi-  
9 ronmental Protection Agency, may provide  
10 and measured in British thermal units.

11           “(ii) QUALIFIED PROFESSIONAL.—  
12 The term ‘qualified professional’ means an  
13 individual who is a licensed architect or a  
14 licenced engineer and meets such other re-  
15 quirements as the Secretary may provide.

16           “(H) COORDINATION WITH DEDUCTION  
17 OTHERWISE ALLOWED UNDER SUBSECTION  
18 (a).—

19           “(i) IN GENERAL.—In the case of any  
20 building with respect to which an election  
21 is made under subparagraph (A), the term  
22 ‘energy efficient commercial building prop-  
23 erty’ shall not include any energy efficient  
24 retrofit building property with respect to

1           which a deduction is allowable under this  
2           paragraph.

3                   “(ii) CERTAIN RULES NOT APPLICA-  
4           BLE.—

5                           “(I) IN GENERAL.—Except as  
6                           provided in subclause (II), subsection  
7                           (d) shall not apply for purposes of  
8                           this paragraph.

9                                   “(II) ALLOCATION OF DEDUC-  
10                                   TION BY CERTAIN TAX-EXEMPT ENTI-  
11                                   TIES.—Rules similar to subsection  
12                                   (d)(4) (determined after application of  
13                                   paragraph (5)) shall apply for pur-  
14                                   poses of this paragraph.”.

15           (c) EFFECTIVE DATE.—

16                   (1) IN GENERAL.—Except as otherwise pro-  
17                   vided in this subsection, the amendment made by  
18                   this section shall apply to taxable years beginning  
19                   after December 31, 2021.

20                           (2) ALTERNATIVE DEDUCTION FOR ENERGY EF-  
21                           FICIENT RETROFIT BUILDING PROPERTY.—Para-  
22                           graph (6) of section 179D(i) of the Internal Revenue  
23                           Code of 1986 (as added by this section), and any  
24                           other provision of such section solely for purposes of  
25                           applying such paragraph, shall apply to property

1 placed in service after December 31, 2021 (in tax-  
2 able years ending after such date) if such property  
3 is placed in service pursuant to qualified retrofit  
4 plan (within the meaning of such section) estab-  
5 lished after such date.

6 **SEC. 136304. EXTENSION, INCREASE, AND MODIFICATIONS**  
7 **OF NEW ENERGY EFFICIENT HOME CREDIT.**

8 (a) EXTENSION OF CREDIT.—Section 45L(g) is  
9 amended by striking “December 31, 2021” and inserting  
10 “December 31, 2031”.

11 (b) INCREASE IN CREDIT AMOUNTS.—Section  
12 45L(a)(2) is amended to read as follows:

13 “(2) APPLICABLE AMOUNT.—For purposes of  
14 paragraph (1), the applicable amount is an amount  
15 equal to—

16 “(A) in the case of a dwelling unit which  
17 is eligible to participate in the Energy Star  
18 Residential New Construction Program or the  
19 Energy Star Manufactured New Homes pro-  
20 gram—

21 “(i) that is described in subsection  
22 (c)(1)(A) (and not described in subsection  
23 (c)(1)(B)), \$2,500, and

24 “(ii) that is described in subsection  
25 (c)(1)(B), \$5000, and

1           “(B) in the case of a dwelling which are  
2           part of a building eligible to participate in the  
3           Energy Star Multifamily New Construction  
4           Program—

5                   “(i) that is described in subsection  
6                   (c)(1)(A) (and not described in subsection  
7                   (c)(1)(B)), \$500, and

8                   “(ii) that is described in subsection  
9                   (c)(1)(B), \$1000.”.

10       (c) MODIFICATION OF ENERGY SAVING REQUIRE-  
11       MENTS.—Section 45L(c) is amended to read as follows:

12       “(c) ENERGY SAVING REQUIREMENTS.—

13           “(1) IN GENERAL.—A dwelling unit meets the  
14           energy saving requirements of this subsection if—

15                   “(A) such dwelling unit meets the require-  
16                   ments of paragraph (2) or (3) (whichever is ap-  
17                   plicable), or

18                   “(B) such dwelling unit is certified as a  
19                   zero energy ready home under the zero energy  
20                   ready home program of the Department of En-  
21                   ergy (or any successor program determined by  
22                   the Secretary, after consultation with the Sec-  
23                   retary of Energy) as in effect on January 1,  
24                   2022.

1           “(2) SINGLE-FAMILY HOME REQUIREMENTS.—

2           A dwelling unit meets the requirements of this para-  
3           graph if—

4                   “(A) such dwelling unit meets—

5                           “(i) in the case of a dwelling unit ac-  
6                           quired before January 1, 2025, the Energy  
7                           Star Single-Family New Homes National  
8                           Program Requirements 3.1, and

9                           “(ii) in the case of a dwelling unit ac-  
10                           quired after December 31, 2024, the En-  
11                           ergy Star Single-Family New Homes Na-  
12                           tional Program Requirements 3.2,

13                   “(B) such dwelling unit meets the most re-  
14                   cent Energy Star Single-Family New Homes  
15                   Program Requirements applicable to the loca-  
16                   tion of such dwelling unit (as in effect on the  
17                   latter of January 1, 2022 or January 1 of two  
18                   calendar years prior to the date the dwelling  
19                   was acquired), or

20                   “(C) such dwelling unit meets the most re-  
21                   cent Energy Star Manufactured Home National  
22                   program requirements as in effect on the latter  
23                   of January 1, 2022 or January 1 of two cal-  
24                   endar years prior to the date such dwelling unit  
25                   is acquired.

1           “(3) MULTI-FAMILY HOME REQUIREMENTS.—A  
2 dwelling unit meets the requirements of this para-  
3 graph if—

4           “(A) such dwelling unit meets the most re-  
5 cent Energy Star Multifamily New Construction  
6 National Program Requirements (as in effect  
7 on either January 1, 2022 or January 1 of  
8 three calendar years prior to the date the dwell-  
9 ing was acquired, whichever is later), and

10           “(B) such dwelling unit meets the most re-  
11 cent Energy Star Multifamily New Construction  
12 Regional Program Requirements applicable to  
13 the location of such dwelling unit (as in effect  
14 on either January 1, 2022 or January 1 of  
15 three calendar years prior to the date the dwell-  
16 ing was acquired, whichever is later).”.

17       (d) PREVAILING WAGE REQUIREMENT.—Section  
18 45L is amended by redesignating subsection (g) as sub-  
19 section (h) and by inserting after subsection (f) the fol-  
20 lowing new subsection:

21       “(g) PREVAILING WAGE REQUIREMENT.—

22           “(1) IN GENERAL.—In the case of a qualifying  
23 residence described in subsection (b)(2)(B) meeting  
24 the prevailing wage requirements of paragraph (2),

1 the credit amount allowed with respect to such resi-  
2 dence shall be—

3 “(A) \$2,500 in the case of a residence de-  
4 scribed in subparagraph (A) of subsection  
5 (c)(1) (and not described in subparagraph (B)  
6 of such subsection), and

7 “(B) \$5,000 in the case of a residence de-  
8 scribed in (c)(1)(B).

9 “(2) PREVAILING WAGE REQUIREMENTS.—

10 “(A) IN GENERAL.—The requirements de-  
11 scribed in this paragraph with respect to any  
12 qualified residence are that the taxpayer shall  
13 ensure that any laborers and mechanics em-  
14 ployed by contractors and subcontractors in the  
15 construction of such residence shall be paid  
16 wages at rates not less than the prevailing rates  
17 for construction, alteration, or repair of a simi-  
18 lar character in the locality as most recently de-  
19 termined by the Secretary of Labor, in accord-  
20 ance with subchapter IV of chapter 31 of title  
21 40, United States Code.

22 “(B) CORRECTION AND PENALTY RELATED  
23 TO FAILURE TO SATISFY WAGE REQUIRE-  
24 MENTS.—In the case of any taxpayer which  
25 fails to satisfy the requirement under subpara-

1 graph (A) with respect to any qualified resi-  
2 dence, rules similar to the rules of section  
3 45(b)(8)(B) shall apply for purposes of this  
4 paragraph.

5 “(3) REGULATIONS AND GUIDANCE.—The Sec-  
6 retary shall issue such regulations or other guidance  
7 as the Secretary determines necessary or appropriate  
8 to carry out the purposes of this subsection.”.

9 (e) EFFECTIVE DATES.—The amendments made by  
10 this section shall apply to dwelling units acquired after  
11 December 31, 2021.

12 **SEC. 136305. MODIFICATIONS TO INCOME EXCLUSION FOR**  
13 **CONSERVATION SUBSIDIES.**

14 (a) IN GENERAL.—Section 136(a) is amended—

15 (1) by striking “any subsidy provided” and in-  
16 serting “any subsidy—

17 “(1) provided”,

18 (2) by striking the period at the end and insert-  
19 ing a comma, and

20 (3) by adding at the end the following new  
21 paragraphs:

22 “(2) provided (directly or indirectly) by a public  
23 utility to a customer, or by a State or local govern-  
24 ment to a resident of such State or locality, for the

1 purchase or installation of any water conservation or  
2 efficiency measure,

3 “(3) provided (directly or indirectly) by a storm  
4 water management provider to a customer, or by a  
5 State or local government to a resident of such State  
6 or locality, for the purchase or installation of any  
7 storm water management measure, or

8 “(4) provided (directly or indirectly) by a State  
9 or local government to a resident of such State or  
10 locality for the purchase or installation of any waste-  
11 water management measure, but only if such meas-  
12 ure is with respect to the taxpayer’s principal resi-  
13 dence.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) DEFINITION OF WATER CONSERVATION OR  
16 EFFICIENCY MEASURE AND STORM WATER MANAGE-  
17 MENT MEASURE.—Section 136(c) is amended—

18 (A) by striking “ENERGY CONSERVATION  
19 MEASURE” in the heading thereof and inserting  
20 “DEFINITIONS”,

21 (B) by striking “IN GENERAL” in the  
22 heading of paragraph (1) and inserting “EN-  
23 ERGY CONSERVATION MEASURE”, and

1 (C) by redesignating paragraph (2) as  
2 paragraph (5) and by inserting after paragraph  
3 (1) the following:

4 “(2) WATER CONSERVATION OR EFFICIENCY  
5 MEASURE.—For purposes of this section, the term  
6 ‘water conservation or efficiency measure’ means any  
7 evaluation of water use, or any installation or modi-  
8 fication of property, the primary purpose of which is  
9 to reduce consumption of water or to improve the  
10 management of water demand with respect to one or  
11 more dwelling units.

12 “(3) STORM WATER MANAGEMENT MEASURE.—  
13 For purposes of this section, the term ‘storm water  
14 management measure’ means any installation or  
15 modification of property primarily designed to re-  
16 duce or manage amounts of storm water with re-  
17 spect to one or more dwelling units.

18 “(4) WASTEWATER MANAGEMENT MEASURE.—  
19 For purposes of this section, the term ‘wastewater  
20 management measure’ means any installation or  
21 modification of property primarily designed to man-  
22 age wastewater (including septic tanks and cess-  
23 pools) with respect to one or more dwelling units.”.

24 (2) DEFINITION OF PUBLIC UTILITY.—Section  
25 136(c)(5) (as redesignated by paragraph (1)(C)) is

1 amended by striking subparagraph (B) and inserting  
2 the following:

3 “(B) PUBLIC UTILITY.—The term ‘public  
4 utility’ means a person engaged in the sale of  
5 electricity, natural gas, or water to residential,  
6 commercial, or industrial customers for use by  
7 such customers.

8 “(C) STORM WATER MANAGEMENT PRO-  
9 VIDER.—The term ‘storm water management  
10 provider’ means a person engaged in the provi-  
11 sion of storm water management measures to  
12 the public.

13 “(D) PERSON.—For purposes of subpara-  
14 graphs (B) and (C), the term ‘person’ includes  
15 the Federal Government, a State or local gov-  
16 ernment or any political subdivision thereof, or  
17 any instrumentality of any of the foregoing.”.

18 (3) CLERICAL AMENDMENTS.—

19 (A) The heading for section 136 is amend-  
20 ed—

21 (i) by inserting “**AND WATER**” after  
22 “**ENERGY**”, and

23 (ii) by striking “**PROVIDED BY PUB-  
24 LIC UTILITIES**”.

1                   (B) The item relating to section 136 in the  
2                   table of sections of part III of subchapter B of  
3                   chapter 1 is amended—

4                   (i) by inserting “and water” after  
5                   “energy”, and

6                   (ii) by striking “provided by public  
7                   utilities”.

8           (c) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to amounts received after Decem-  
10          ber 31, 2018.

11          (d) NO INFERENCE.—Nothing in this Act or the  
12          amendments made by this Act shall be construed to create  
13          any inference with respect to the proper tax treatment of  
14          any subsidy received directly or indirectly from a public  
15          utility, a storm water management provider, or a State  
16          or local government for any water conservation measure  
17          or storm water management measure before January 1,  
18          2019.

1                   **PART 4—GREENING THE FLEET AND**  
2                   **ALTERNATIVE VEHICLES**  
3 **SEC. 136401. REFUNDABLE NEW QUALIFIED PLUG-IN ELEC-**  
4                   **TRIC DRIVE MOTOR VEHICLE CREDIT FOR IN-**  
5                   **DIVIDUALS.**

6           (a) IN GENERAL.—Subpart C of part IV of sub-  
7 chapter A of chapter 1 is amended by inserting after sec-  
8 tion 36B the following new section:

9 **“SEC. 36C. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**  
10                   **MOTOR VEHICLES.**

11           “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
12 dividual, there shall be allowed as a credit against the tax  
13 imposed by this subtitle for the taxable year an amount  
14 equal to the sum of the credit amounts determined under  
15 subsection (b) with respect to each new qualified plug-in  
16 electric drive motor vehicle placed in service by the tax-  
17 payer during the taxable year.

18           “(b) PER VEHICLE DOLLAR LIMITATION.—

19           “(1) IN GENERAL.—The amount determined  
20 under this subsection with respect to any new quali-  
21 fied plug-in electric drive motor vehicle is the sum  
22 of the amounts determined under paragraphs (2)  
23 through (5) with respect to such vehicle (not to ex-  
24 ceed 50 percent of the purchase price of such vehi-  
25 cle).

1           “(2) BASE AMOUNT.—The amount determined  
2 under this paragraph is \$4,000.

3           “(3) BATTERY CAPACITY.—In the case of a new  
4 qualified plug-in electric drive motor vehicle, the  
5 amount determined under this paragraph is \$3,500  
6 if—

7           “(A) in the case of a vehicle placed in serv-  
8 ice before January 1, 2027, such vehicle draws  
9 propulsion energy from a battery with not less  
10 than 40 kilowatt hours of capacity, and

11           “(B) in the case of a vehicle placed in serv-  
12 ice after December 31, 2026, such vehicle  
13 draws propulsion energy from a battery with  
14 not less than 50 kilowatt hours of capacity.

15           “(4) DOMESTIC ASSEMBLY.—In the case of a  
16 new qualified plug-in vehicle which satisfies the do-  
17 mestic assembly qualifications, the amount deter-  
18 mined under this paragraph is \$4,500.

19           “(5) DOMESTIC CONTENT.—In the case of a  
20 new qualified plug-in vehicle which satisfies domestic  
21 content qualifications, the amount determined under  
22 this paragraph is \$500.

23           “(c) LIMITATION BASED ON MODIFIED ADJUSTED  
24 GROSS INCOME.—

1           “(1) IN GENERAL.—The amount of the credit  
2           allowable under subsection (a) shall be reduced (but  
3           not below zero) by \$200 for each \$1,000 (or fraction  
4           thereof) by which the taxpayer’s modified adjusted  
5           gross income exceeds the threshold amount. For  
6           purposes of the preceding sentence, the term ‘modi-  
7           fied adjusted gross income’ means adjusted gross in-  
8           come increased by any amount excluded from gross  
9           income under section 911, 931, or 933.

10           “(2) SPECIAL RULE FOR DETERMINATION OF  
11           MODIFIED ADJUSTED GROSS INCOME.—The modified  
12           adjusted gross income of the taxpayer that is taken  
13           into account for purposes of paragraph (1) shall be  
14           the lesser of—

15                   “(A) the modified adjusted gross income  
16                   for the taxable year in which the credit is  
17                   claimed, or

18                   “(B) the modified adjusted gross income  
19                   for the immediately preceding taxable year.

20           “(3) THRESHOLD AMOUNT.—For purposes of  
21           paragraph (1), the term ‘threshold amount’ means—

22                   “(A) \$800,000 in the case of a joint return  
23                   or surviving spouse (half such amount for mar-  
24                   ried filing separately),

1           “(B) \$600,000 in the case of a head of  
2 household, and

3           “(C) \$400,000 in any other case.

4           “(d) MANUFACTURER’S SUGGESTED RETAIL PRICE  
5 LIMITATION.—

6           “(1) IN GENERAL.—No credit shall be allowed  
7 under subsection (a) for a vehicle with a manufac-  
8 turer’s suggested retail price in excess of the appli-  
9 cable limitation.

10           “(2) APPLICABLE LIMITATION.—For purposes  
11 of paragraph (1), the applicable limitation for each  
12 vehicle classification is as follows:

13           “(A) SEDANS.—In the case of a sedan,  
14 \$55,000.

15           “(B) VANS.—In the case of a van,  
16 \$64,000.

17           “(C) SPORT UTILITY VEHICLES.—In the  
18 case of a sport utility vehicle, \$69,000.

19           “(D) PICKUP TRUCKS.—In the case of a  
20 pickup truck, \$74,000.

21           “(3) REGULATIONS.—For purposes of this sub-  
22 section, the Secretary shall prescribe regulations for  
23 determining vehicle classifications using criteria  
24 similar to that employed by the Environmental Pro-

1           tection Agency and the Department of Energy to de-  
2           termine size and class of vehicles.

3           “(e) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE  
4 MOTOR VEHICLE.—For purposes of this section—

5                   “(1) IN GENERAL.—The term ‘new qualified  
6 plug-in electric drive motor vehicle’ means a motor  
7 vehicle—

8                           “(A) the original use of which commences  
9 with the taxpayer,

10                           “(B) which is acquired for use by the tax-  
11 payer and not for resale,

12                           “(C) which is made by a qualified manu-  
13 facturer,

14                           “(D) which is treated as a motor vehicle  
15 for purposes of title II of the Clean Air Act,

16                           “(E) which has a gross vehicle weight rat-  
17 ing of less than 14,000 pounds,

18                           “(F) which is propelled to a significant ex-  
19 tent by an electric motor which draws electricity  
20 from a battery which—

21                                   “(i) has a capacity of—

22   “(I) in the case of a vehicle  
23 placed in service in 2022 or 2023, not  
24 less than 7 kilowatt hours, and

1                   “(II) in the case of a vehicle  
2                   placed in service after 2023, not less  
3                   than 10 kilowatt hours, and

4                   “(ii) is capable of being recharged  
5                   from an external source of electricity,

6                   “(G) for which, in the case of a vehicle  
7                   placed into service after December 31, 2026,  
8                   final assembly is within the United States, and

9                   “(H) is not of a character subject to an al-  
10                  lowance for depreciation.

11                  “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
12                  cle’ means any vehicle which is manufactured pri-  
13                  marily for use on public streets, roads, and highways  
14                  (not including a vehicle operated exclusively on a rail  
15                  or rails) and which has at least 4 wheels.

16                  “(3) QUALIFIED MANUFACTURER.—The term  
17                  ‘qualified manufacturer’ means any manufacturer  
18                  (within the meaning of the regulations prescribed by  
19                  the Administrator of the Environmental Protection  
20                  Agency for purposes of the administration of title II  
21                  of the Clean Air Act (42 U.S.C. 7521 et seq.) which  
22                  enters into a written agreement with the Secretary  
23                  under which such manufacturer agrees—

24                  “(A) to ensure that each vehicle manufac-  
25                  tured by such manufacturer after the later of

1 the date on which such agreement takes effect  
2 or December 31, 2021, and that meets the re-  
3 quirements of subparagraphs (D), (E), and (F)  
4 of paragraph (1) and paragraph (6) of sub-  
5 section (e) is labeled with a unique vehicle iden-  
6 tification number, and

7 “(B) to make periodic written reports to  
8 the Secretary (at such times and in such man-  
9 ner as the Secretary may provide) providing  
10 such vehicle identification numbers and such  
11 other information related to such vehicle as the  
12 Secretary may require.

13 “(4) BATTERY CAPACITY.—The term ‘capacity’  
14 means, with respect to any battery, the quantity of  
15 electricity which the battery is capable of storing, ex-  
16 pressed in kilowatt hours, as measured from a 100  
17 percent state of charge to a 0 percent state of  
18 charge.

19 “(f) SPECIAL RULES.—

20 “(1) BASIS REDUCTION.—For purposes of this  
21 subtitle, the basis of any property for which a credit  
22 is allowable under subsection (a) shall be reduced by  
23 the amount of such credit so allowed.

24 “(2) NO DOUBLE BENEFIT.—The amount of  
25 any deduction or other credit allowable under this

1 chapter for a vehicle for which a credit is allowable  
2 under subsection (a) shall be reduced by the amount  
3 of credit allowed under such subsection for such ve-  
4 hicle.

5 “(3) PROPERTY USED OUTSIDE UNITED STATES  
6 NOT QUALIFIED.—No credit shall be allowable under  
7 subsection (a) with respect to any property referred  
8 to in section 50(b)(1).

9 “(4) RECAPTURE.—The Secretary shall, by reg-  
10 ulations, provide for recapturing the benefit of any  
11 credit allowable under subsection (a) with respect to  
12 any property which ceases to be property eligible for  
13 such credit.

14 “(5) ELECTION NOT TO TAKE CREDIT.—No  
15 credit shall be allowed under subsection (a) for any  
16 vehicle if the taxpayer elects to not have this section  
17 apply to such vehicle.

18 “(6) INTERACTION WITH AIR QUALITY AND  
19 MOTOR VEHICLE SAFETY STANDARDS.—A vehicle  
20 shall not be considered eligible for a credit under  
21 this section unless such vehicle is in compliance  
22 with—

23 “(A) the applicable provisions of the Clean  
24 Air Act for the applicable make and model year  
25 of the vehicle (or applicable air quality provi-

1           sions of State law in the case of a State which  
2           has adopted such provision under a waiver  
3           under section 209(b) of the Clean Air Act), and

4                   “(B) the motor vehicle safety provisions of  
5           sections 30101 through 30169 of title 49,  
6           United States Code.

7           “(g) CREDIT ALLOWED FOR 2 AND 3-WHEELED  
8 PLUG-IN ELECTRIC VEHICLES.—

9                   “(1) IN GENERAL.—In the case of a qualified  
10          2- or 3-wheeled plug-in electric vehicle—

11                   “(A) there shall be allowed as a credit  
12          against the tax imposed by this subtitle for the  
13          taxable year an amount equal to the sum of the  
14          applicable amount with respect to each such  
15          qualified 2- or 3-wheeled plug-in electric vehicle  
16          placed in service by the taxpayer during the  
17          taxable year, and

18                   “(B) the amount of the credit allowed  
19          under subparagraph (A) shall be treated as a  
20          credit allowed under subsection (a).

21                   “(2) APPLICABLE AMOUNT.—For purposes of  
22          paragraph (1), the applicable amount is an amount  
23          equal to the lesser of—

24                   “(A) 10 percent of the cost of the qualified  
25          2- or 3-wheeled plug-in electric vehicle, or

1 “(B) \$2,500.

2 “(3) QUALIFIED 2- OR 3-WHEELED PLUG-IN  
3 ELECTRIC VEHICLE.—The term ‘qualified 2- or 3-  
4 wheeled plug-in electric vehicle’ means any vehicle  
5 which—

6 “(A) has 2 or 3 wheels,

7 “(B) meets the requirements of subpara-  
8 graphs (A), (B), (C), (E), (F), and (G) of sub-  
9 section (e)(1) (determined by substituting ‘2.5  
10 kilowatt hours’ for ‘7 kilowatt hours’ in sub-  
11 paragraph (F)(i)(I) and by substituting ‘2.5 kil-  
12 owatt hours’ for ‘10 kilowatt hours’ in subpara-  
13 graph (F)(i)(II)),

14 “(C) is manufactured primarily for use on  
15 public streets, roads, and highways, and

16 “(D) is capable of achieving a speed of 45  
17 miles per hour or greater.

18 “(h) VIN NUMBER REQUIREMENT.—No credit shall  
19 be allowed under this section with respect to any vehicle  
20 unless the taxpayer includes the vehicle identification  
21 number of such vehicle on the return of tax for the taxable  
22 year.

23 “(i) TREATMENT OF CERTAIN POSSESSIONS.—

24 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR  
25 CODE TAX SYSTEMS.—The Secretary shall pay to

1 each possession of the United States which has a  
2 mirror code tax system amounts equal to the loss (if  
3 any) to that possession by reason of the application  
4 of the provisions of this section (determined without  
5 regard to this subsection). Such amounts shall be  
6 determined by the Secretary based on information  
7 provided by the government of the respective posses-  
8 sion.

9 “(2) PAYMENTS TO OTHER POSSESSIONS.—The  
10 Secretary shall pay to each possession of the United  
11 States which does not have a mirror code tax system  
12 amounts estimated by the Secretary as being equal  
13 to the aggregate benefits (if any) that would have  
14 been provided to residents of such possession by rea-  
15 son of the provisions of this section if a mirror code  
16 tax system had been in effect in such possession.  
17 The preceding sentence shall not apply unless the re-  
18 spective possession has a plan which has been ap-  
19 proved by the Secretary under which such possession  
20 will promptly distribute such payments to its resi-  
21 dents.

22 “(3) MIRROR CODE TAX SYSTEM; TREATMENT  
23 OF PAYMENTS.—Rules similar to the rules of para-  
24 graphs (4) and (5) of section 21(h) shall apply for  
25 purposes of this section.

1 “(j) ASSEMBLY AND CONTENT QUALIFICATIONS.—

2 For purposes of this section—

3 “(1) DOMESTIC ASSEMBLY QUALIFICATIONS.—

4 The term ‘domestic assembly qualifications’ means,  
5 with respect to any new qualified plug-in electric ve-  
6 hicle, that the final assembly of such vehicle occurs  
7 at a plant, factory, or other place which is operating  
8 under a collective bargaining agreement negotiated  
9 by an employee organization (as defined in section  
10 412(c)(4)), determined in a manner consistent with  
11 section 7701(a)(46).

12 “(2) DOMESTIC CONTENT QUALIFICATIONS.—

13 The term ‘domestic content qualifications’ means,  
14 with respect to any model of a new qualified plug-  
15 in electric vehicle, that vehicles of that model—

16 “(A) are assembled by a manufacturer  
17 which utilizes not less than 50 percent domestic  
18 content in the component parts for final assem-  
19 bly of such vehicles, and

20 “(B) are powered by battery cells which  
21 are manufactured in the United States (with  
22 such battery cells to be included for purposes of  
23 the requirement described in subparagraph  
24 (A)), as certified by the manufacturer, at such

1           time, and in such form and manner, as the Sec-  
2           retary may prescribe.

3           “(3) FINAL ASSEMBLY.—The term ‘final assem-  
4           bly’ means the process by which a manufacturer pro-  
5           duces a new qualified plug-in electric vehicle at, or  
6           through the use of, a plant, factory, or other place  
7           from which the vehicle is delivered to a dealer or im-  
8           porter with all component parts necessary for the  
9           mechanical operation of the vehicle included with the  
10          vehicle, whether or not the component parts are per-  
11          manently installed in or on the vehicle.

12          “(k) TERMINATION.—No credit shall be allowed  
13          under this section with respect to any vehicle acquired  
14          after December 31, 2031.”.

15          (b) TRANSFER OF CREDIT.—Subsection (f) of section  
16          36C is amended by adding at the end the following new  
17          paragraphs:

18                 “(7) IN GENERAL.—Subject to such regulations  
19                 or other guidance as the Secretary determines nec-  
20                 essary or appropriate, if, with respect to the credit  
21                 allowed under subsection (a) for any taxable year,  
22                 the taxpayer elects the application of this subpara-  
23                 graph for such taxable year with respect to such  
24                 credit, the eligible entity specified in such election,  
25                 and not the taxpayer who has purchased or leased

1 the vehicle, shall be treated as the taxpayer for pur-  
2 poses of this title with respect to such credit.

3 “(8) ELIGIBLE ENTITY.—For purposes of this  
4 paragraph, the term ‘eligible entity’ means, with re-  
5 spect to the vehicle for which the credit is allowed  
6 under subsection (a), the dealer which sold such ve-  
7 hicle to the taxpayer and has—

8 “(A) subject to paragraph (10), registered  
9 with the Secretary for purposes of this para-  
10 graph, at such time, and in such form and  
11 manner, as the Secretary may prescribe,

12 “(B) prior to the election described in  
13 paragraph (7), disclosed to the taxpayer pur-  
14 chasing such vehicle—

15 “(i) the manufacturer’s suggested re-  
16 tail price,

17 “(ii) the value of the credit allowed or  
18 other incentive available for the purchase  
19 or lease of such vehicle,

20 “(iii) all fees associated with the pur-  
21 chase or lease of such vehicle, and

22 “(iv) the amount provided by the deal-  
23 er to such taxpayer as a condition of the  
24 election described in paragraph (7),

1           “(C) made payment to such taxpayer  
2           (whether in cash or in the form of a partial  
3           payment or down payment for the purchase of  
4           such vehicle) in an amount equal to the credit  
5           otherwise allowable to such taxpayer, and

6           “(D) with respect to any incentive other-  
7           wise available for the purchase of a vehicle for  
8           which a credit is allowed under this section, in-  
9           cluding any incentive in the form of a rebate or  
10          discount provided by the dealer or manufac-  
11          turer, ensured that—

12                  “(i) the availability or use of such in-  
13                  centive shall not limit the ability of a tax-  
14                  payer to make an election described in  
15                  paragraph (7), and

16                  “(ii) such election shall not limit the  
17                  value or use of such incentive.

18          “(9) TIMING.—An election described in para-  
19          graph (7) shall be made by the taxpayer not later  
20          than the date on which the vehicle for which the  
21          credit is allowed under subsection (a) is purchased.

22          “(10) REVOCATION OF REGISTRATION.—Upon  
23          determination by the Secretary that a dealer has  
24          failed to comply with the requirements described in  
25          paragraph (8), the Secretary may revoke the reg-

1           istration (as described in subparagraph (A) of such  
2           subparagraph) of such dealer.

3           “(11) TAX TREATMENT OF PAYMENTS.—With  
4           respect to any payment described in paragraph  
5           (8)(C), such payment—

6                   “(A) shall not be includible in the gross in-  
7                   come of the taxpayer, and

8                   “(B) with respect to the dealer, shall not  
9                   be deductible under this title.

10           “(12) ADVANCE PAYMENT TO REGISTERED  
11           DEALERS.—

12                   “(A) IN GENERAL.—The Secretary shall  
13                   establish a program to make advance payments  
14                   to any eligible entity in an amount equal to the  
15                   cumulative amount of the credits allowed under  
16                   subsection (a) with respect to any vehicles sold  
17                   by such entity for which an election described  
18                   in paragraph (1) has been made.

19                   “(B) EXCESSIVE PAYMENTS.—Rules simi-  
20                   lar to the rules of section 6417(c)(8) shall apply  
21                   for purposes of this subparagraph.

22           “(13) DEALER.—For purposes of this para-  
23           graph, the term ‘dealer’ means a person licensed by  
24           a State, the District of Columbia, the Common-  
25           wealth of Puerto Rico, any other territory or posses-

1 sion of the United States, or an Indian Tribe (as de-  
2 fined in section 4 of the Indian Self-Determination  
3 and Education Assistance Act (25 U.S.C. 5304)) to  
4 engage in the sale of vehicles.”.

5 (c) REPEAL OF NONREFUNDABLE NEW QUALIFIED  
6 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.—  
7 Subpart B of part IV of subchapter A of chapter 1 is  
8 amended by striking section 30D (and by striking the item  
9 relating to such section in the table of sections of such  
10 subpart).

11 (d) CONFORMING AMENDMENTS.—

12 (1) Section 1016(a)(37) is amended by striking  
13 “section 30D(f)(1)” and inserting “section  
14 36C(f)(1)”.

15 (2) Section 6211(b)(4)(A) is amended by insert-  
16 ing “36C,” after “36B,”.

17 (3) Section 6213(g)(2), as amended by the pre-  
18 ceding provisions of this Act, is amended—

19 (A) in subparagraph (R), by striking  
20 “and” at the end,

21 (B) in subparagraph (S), by striking the  
22 period at the end and inserting “, and”, and

23 (C) by adding at the end the following:

24 “(T) an omission of a correct vehicle iden-  
25 tification number required under section 36C(f)

1 (relating to credit for new qualified plug-in elec-  
2 tric drive motor vehicles) to be included on a re-  
3 turn.”.

4 (4) Section 6501(m) is amended by striking  
5 “30D(e)(4)” and inserting “36C(f)(5)”.

6 (5) Section 166(b)(5)(A)(ii) of title 23, United  
7 States Code, is amended by striking “section  
8 30D(d)(1)” and inserting “section 36C(e)(1)”.

9 (6) Section 1324(b)(2) of title 31, United  
10 States Code, is amended by inserting “36C,” after  
11 “36B,”.

12 (7) The table of sections for subpart C of part  
13 IV of subchapter A of chapter 1 is amended by in-  
14 serting after the item relating to section 36B the fol-  
15 lowing new item:

“Sec. 36C. New qualified plug-in electric drive motor vehicles.”.

16 (e) EFFECTIVE DATES.—

17 (1) The amendments made by subsections (a),  
18 (c), and (d) of this section shall apply to vehicles ac-  
19 quired after December 31, 2021.

20 (2) The amendments made by subsection (b)  
21 shall apply to vehicles purchased or leased after De-  
22 cember 31, 2022.

1 **SEC. 136402. CREDIT FOR PREVIOUSLY-OWNED QUALIFIED**  
2 **PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-  
4 chapter A of chapter 1, as amended by the preceding pro-  
5 visions of this Act, is amended by inserting after section  
6 36C the following new section:

7 **“SEC. 36D. PREVIOUSLY-OWNED QUALIFIED PLUG-IN ELEC-**  
8 **TRIC DRIVE MOTOR VEHICLES.**

9 “(a) ALLOWANCE OF CREDIT.—In the case of a  
10 qualified buyer who during a taxable year places in service  
11 a previously-owned qualified plug-in electric drive motor  
12 vehicle, there shall be allowed as a credit against the tax  
13 imposed by this subtitle for the taxable year an amount  
14 equal to the sum of—

15 “(1) \$1,250, plus

16 “(2) in the case of a vehicle which draws pro-  
17 pulsion energy from a battery which exceeds 4 kilo-  
18 watt hours of capacity (determined at the time of  
19 sale), the lesser of—

20 “(A) \$1,250, and

21 “(B) the product of \$208.50 and such ex-  
22 cess kilowatt hours.

23 “(b) LIMITATIONS.—

24 “(1) SALE PRICE.—The credit allowed under  
25 subsection (a) with respect to sale of a vehicle shall  
26 not exceed 30 percent of the sale price.

1           “(2) ADJUSTED GROSS INCOME.—The amount  
2           which would (but for this paragraph) be allowed as  
3           a credit under subsection (a) shall be reduced (but  
4           not below zero) by \$200 for each \$1,000 (or fraction  
5           thereof) by which the taxpayer’s adjusted gross in-  
6           come exceeds—

7                   “(A) \$150,000 in the case of a joint return  
8                   or a surviving spouse (as defined in section  
9                   2(a)),

10                   “(B) \$112,500 in the case of a head of  
11                   household (as defined in section 2(b)), and

12                   “(C) \$75,000 in the case of a taxpayer not  
13                   described in paragraph (1) or (2).

14           “(c) DEFINITIONS.—For purposes of this section—

15                   “(1) PREVIOUSLY-OWNED QUALIFIED PLUG-IN  
16                   ELECTRIC DRIVE MOTOR VEHICLE.—The term ‘pre-  
17                   viously-owned qualified plug-in electric drive motor  
18                   vehicle’ means, with respect to a taxpayer, a motor  
19                   vehicle—

20                           “(A) the model year of which is at least 2  
21                           earlier than the calendar year in which the tax-  
22                           payer acquires such vehicle,

23                           “(B) the original use of which commences  
24                           with a person other than the taxpayer,

1           “(C) which is acquired by the taxpayer in  
2 a qualified sale,

3           “(D) registered by the taxpayer for oper-  
4 ation in a State or possession of the United  
5 States, and

6           “(E) which meets the requirements of sub-  
7 paragraphs (C), (D), (E), (F), and (G) of sec-  
8 tion 36C(e)(1).

9           “(2) QUALIFIED SALE.—The term ‘qualified  
10 sale’ means a sale of a motor vehicle—

11           “(A) by a seller who holds such vehicle in  
12 inventory (within the meaning of section 471)  
13 for sale or lease,

14           “(B) for a sale price not to exceed  
15 \$25,000, and

16           “(C) which is the first transfer since the  
17 date of the enactment of this section to a per-  
18 son other than the person with whom the origi-  
19 nal use of such vehicle commenced.

20           “(3) QUALIFIED BUYER.—The term ‘qualified  
21 buyer’ means, with respect to a sale of a motor vehi-  
22 cle, a taxpayer—

23           “(A) who is an individual,

24           “(B) who purchases such vehicle for use  
25 and not for resale,

1           “(C) with respect to whom no deduction is  
2           allowable with respect to another taxpayer  
3           under section 151,

4           “(D) who has not been allowed a credit  
5           under this section for any sale during the 3-  
6           year period ending on the date of the sale of  
7           such vehicle, and

8           “(E) who possesses a certificate issued by  
9           the seller that certifies—

10           “(i) that the vehicle is a previously-  
11           owned qualified plug-in electric drive motor  
12           vehicle,

13           “(ii) the vehicle identification number  
14           of such vehicle,

15           “(iii) the capacity of the battery at  
16           time of sale, and

17           “(iv) such other information as the  
18           Secretary may require.

19           “(4) MOTOR VEHICLE; CAPACITY.—The terms  
20           ‘motor vehicle’ and ‘capacity’ have the meaning  
21           given such terms in paragraphs (2) and (4) of sec-  
22           tion 36C(e), respectively.

23           “(d) VIN NUMBER REQUIREMENT.—No credit shall  
24           be allowed under subsection (a) with respect to any vehicle  
25           unless the taxpayer includes the vehicle identification

1 number of such vehicle on the return of tax for the taxable  
2 year.

3 “(e) APPLICATION OF CERTAIN RULES.—For pur-  
4 poses of this section, rules similar to the rules of para-  
5 graphs (1), (2), (4), (5), (6) and (7) of section 36C(f)  
6 shall apply for purposes of this section.

7 “(f) CERTIFICATE SUBMISSION REQUIREMENT.—  
8 The Secretary may require that the issuer of the certifi-  
9 cate described in subsection (c)(3)(E) submit such certifi-  
10 cate to the Secretary at the time and in the manner re-  
11 quired by the Secretary.

12 “(g) TREATMENT OF CERTAIN POSSESSIONS.—

13 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR  
14 CODE TAX SYSTEMS.—The Secretary shall pay to  
15 each possession of the United States which has a  
16 mirror code tax system amounts equal to the loss (if  
17 any) to that possession by reason of the application  
18 of the provisions of this section. Such amounts shall  
19 be determined by the Secretary based on information  
20 provided by the government of the respective posses-  
21 sion.

22 “(2) PAYMENTS TO OTHER POSSESSIONS.—The  
23 Secretary shall pay to each possession of the United  
24 States which does not have a mirror code tax system  
25 amounts estimated by the Secretary as being equal

1 to the aggregate benefits (if any) that would have  
2 been provided to residents of such possession by rea-  
3 son of the provisions of this section if a mirror code  
4 tax system had been in effect in such possession.  
5 The preceding sentence shall not apply unless the re-  
6 spective possession has a plan which has been ap-  
7 proved by the Secretary under which such possession  
8 will promptly distribute such payments to its resi-  
9 dents.

10 “(3) MIRROR CODE TAX SYSTEM; TREATMENT  
11 OF PAYMENTS.—Rules similar to the rules of para-  
12 graphs (4) and (5) of section 21(h) shall apply for  
13 purposes of this section.

14 “(h) TERMINATION.—No credit shall be allowed  
15 under this section with respect to any vehicle acquired  
16 after December 31, 2031.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 6211(b)(4)(A), as amended by the  
19 preceding provisions of this Act, is amended by in-  
20 sserting “36D,” after “36C,”.

21 (2) Section 6213(g)(2), as amended by the pre-  
22 ceding provisions of this Act, is amended—

23 (A) in subparagraph (S), by striking  
24 “and” at the end,

1 (B) in subparagraph (T), by striking the  
2 period at the end and inserting “, and”, and

3 (C) by adding at the end the following:

4 “(U) an omission of a correct vehicle iden-  
5 tification number required under section  
6 36D(d) (relating to credit for previously-owned  
7 qualified plug-in electric drive motor vehicles) to  
8 be included on a return.”.

9 (3) Paragraph (2) of section 1324(b) of title  
10 31, United States Code, as amended by the pre-  
11 ceding provisions of this Act, is amended by insert-  
12 ing “36D,” after “36C,”.

13 (c) CLERICAL AMENDMENT.—The table of sections  
14 for subpart C of part IV of subchapter A of chapter 1,  
15 as amended by the preceding provisions of this Act, is  
16 amended by inserting after the item relating to section  
17 36C the following new item:

“Sec. 36D. Previously-owned qualified plug-in electric drive motor vehicles.”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to vehicles acquired after Decem-  
20 ber 31, 2021.

21 **SEC. 136403. QUALIFIED COMMERCIAL ELECTRIC VEHI-**  
22 **CLES.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-  
24 chapter A of chapter 1 is amended by adding at the end  
25 the following new section:

1 **“SEC. 45Y. CREDIT FOR QUALIFIED COMMERCIAL ELEC-**  
2 **TRIC VEHICLES.**

3 “(a) IN GENERAL.—For purposes of section 38, the  
4 qualified commercial electric vehicle credit for any taxable  
5 year is an amount equal to the sum of the credit amounts  
6 determined under subsection (b) with respect to each  
7 qualified commercial electric vehicle placed in service by  
8 the taxpayer during the taxable year.

9 “(b) PER VEHICLE AMOUNT.—The amount deter-  
10 mined under this subsection with respect to any qualified  
11 commercial electric vehicle shall be equal to 30 percent  
12 of the basis of such vehicle.

13 “(c) QUALIFIED COMMERCIAL ELECTRIC VEHI-  
14 CLE.—For purposes of this section, the term ‘qualified  
15 commercial electric vehicle’ means any vehicle which—

16 “(1) meets the requirements of subparagraphs  
17 (A) and (C) of section 36C(e)(1) without regard to  
18 any gross vehicle weight rating, and is acquired for  
19 use or lease by the taxpayer and not for resale,

20 “(2) either—

21 “(A) meets the requirements of subpara-  
22 graph (D) of section 36C(e)(1), or

23 “(B) is mobile machinery, as defined in  
24 section 4053(8),

25 “(3) is primarily propelled by an electric motor  
26 which draws electricity from a battery which—

1           “(A) has a capacity of not less than 30 kil-  
2           owatt hours,

3           “(B) is capable of being recharged from an  
4           external source of electricity,

5           “(C) is not powered or charged by an in-  
6           ternal combustion engine, or

7           “(D) is a new qualified fuel cell motor ve-  
8           hicle described in subparagraphs (A) and (B) of  
9           section 30B(b)(3), and

10          “(4) is of a character subject to the allowance  
11          for depreciation.

12          “(d) SPECIAL RULES.—

13           “(1) IN GENERAL.—Rules similar to the rules  
14          under subsection (f) of section 36C shall apply for  
15          purposes of this section.

16           “(2) PROPERTY USED BY TAX-EXEMPT ENTI-  
17          TY.—In the case of a vehicle the use of which is de-  
18          scribed in paragraph (3) or (4) of section 50(b) and  
19          which is not subject to a lease, the person who sold  
20          such vehicle to the person or entity using such vehi-  
21          cle shall be treated as the taxpayer that placed such  
22          vehicle in service, but only if such person clearly dis-  
23          closes to such person or entity in a document the  
24          amount of any credit allowable under subsection (a)  
25          with respect to such vehicle.

1       “(e) VIN NUMBER REQUIREMENT.—No credit shall  
2 be determined under subsection (a) with respect to any  
3 vehicle unless the taxpayer includes the vehicle identifica-  
4 tion number of such vehicle on the return of tax for the  
5 taxable year.

6       “(f) TERMINATION.—No credit shall be determined  
7 under this section with respect to any vehicle acquired  
8 after December 31, 2031.”.

9       (b) CONFORMING AMENDMENTS.—

10           (1) Section 38(b) is amended by striking para-  
11 graph (30) and inserting the following:

12           “(30) the qualified commercial electric vehicle  
13 credit determined under section 45Y,”.

14           (2) Section 6213(g)(2), as amended by the pre-  
15 ceding provisions of this Act, is amended—

16           (A) in subparagraph (T), by striking  
17 “and” at the end,

18           (B) in subparagraph (U), by striking the  
19 period at the end and inserting “, and”, and

20           (C) by adding at the end the following:

21           “(V) an omission of a correct vehicle iden-  
22 tification number required under section 45Y(e)  
23 (relating to commercial electric vehicle credit)  
24 to be included on a return.”.

1           (3) The table of sections for subpart D of part  
2           IV of subchapter A of chapter 1 is amended by add-  
3           ing at the end the following new item:

“Sec. 45Y. Qualified commercial electric vehicle credit.”.

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to vehicles acquired after Decem-  
6 ber 31, 2021.

7 **SEC. 136404. QUALIFIED FUEL CELL MOTOR VEHICLES.**

8           (a) IN GENERAL.—Section 30B(k)(1) is amended by  
9 striking “December 31, 2021” and inserting “December  
10 31, 2031”.

11          (b) NEW QUALIFIED FUEL CELL MOTOR VEHI-  
12 CLE.—Section 30B(b) is amended by striking “and” at  
13 the end of subparagraph (D), by striking the period at  
14 the end of subparagraph (E) and inserting “, and”, and  
15 by adding at the end the following new subparagraph:

16                   “(F) which is not property of a character  
17                   subject to an allowance for depreciation.”.

18          (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to property placed in service after  
20 December 31, 2021.

21 **SEC. 136405. ALTERNATIVE FUEL REFUELING PROPERTY**  
22 **CREDIT.**

23          (a) IN GENERAL.—Section 30C(g) is amended by  
24 striking “December 31, 2021” and inserting “December  
25 31, 2031”.

1 (b) ADDITIONAL CREDIT FOR CERTAIN ELECTRIC  
2 CHARGING PROPERTY.—

3 (1) IN GENERAL.—Section 30C(a) is amend-  
4 ed—

5 (A) by striking “equal to 30 percent” and  
6 inserting the following: “equal to the sum of—  
7 “(1) 30 percent”,

8 (B) by striking the period at the end and  
9 inserting “, plus”, and

10 (C) by adding at the end the following new  
11 paragraph:

12 “(2) 20 percent of so much of such cost as ex-  
13 ceeds the limitation under subsection (b)(1) that  
14 does not exceed the amount of cost attributable to  
15 qualified alternative vehicle refueling property (de-  
16 termined without regard to subsection (c)(1) and as  
17 if only electricity, and fuel at least 85 percent of the  
18 volume of which consists of hydrogen, were treated  
19 as clean-burning fuels for purposes of section  
20 179A(d)) which—

21 “(A) is intended for general public use  
22 with no associated fee or payment arrangement,

23 “(B) is intended for general public use and  
24 accepts payment via a credit card reader, in-

1 including a credit card reader that uses  
2 contactless technology, or

3 “(C) is intended for use exclusively by  
4 fleets of commercial or governmental vehicles.”.

5 (2) CONFORMING AMENDMENT.—Section  
6 30C(b) is amended—

7 (A) by striking “The credit allowed under  
8 subsection (a)” and inserting “The amount of  
9 cost taken into account under subsection  
10 (a)(1)”,

11 (B) by striking “\$30,000” and inserting  
12 “\$100,000”, and

13 (C) by striking “\$1,000” and inserting  
14 “\$3,333.33”.

15 (3) BIDIRECTIONAL CHARGING EQUIPMENT IN-  
16 CLUDED AS QUALIFIED ALTERNATIVE FUEL VEHI-  
17 CLE REFUELING PROPERTY.—Section 30C(e) is  
18 amended—

19 (A) by striking “For purposes of this sec-  
20 tion, the term” and inserting “For purposes of  
21 this section—

22 “(1) IN GENERAL.—The term”, and

23 (B) by adding at the end the following new  
24 paragraph:

1           “(2) BIDIRECTIONAL CHARGING EQUIPMENT.—  
2           Property shall not fail to be treated as qualified al-  
3           ternative vehicle refueling property solely because  
4           such property—

5                   “(A) is capable of charging the battery of  
6                   a motor vehicle propelled by electricity, and

7                   “(B) allows discharging electricity from  
8                   such battery to an electric load external to such  
9                   motor vehicle.”.

10          (c) CERTAIN ELECTRIC CHARGING STATIONS IN-  
11          CLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE  
12          REFUELING PROPERTY.—Section 30C is amended by re-  
13          designating subsections (f) and (g) as subsections (g) and  
14          (h), respectively, and by inserting after subsection (e) the  
15          following:

16               “(f) SPECIAL RULE FOR ELECTRIC CHARGING STA-  
17          TIONS FOR CERTAIN VEHICLES WITH 2 OR 3 WHEELS.—  
18          For purposes of this section—

19                   “(1) IN GENERAL.—The term ‘qualified alter-  
20                   native fuel vehicle refueling property’ includes any  
21                   property described in subsection (c) for the re-  
22                   charging of a motor vehicle described in paragraph  
23                   (2) that is propelled by electricity, but only if the  
24                   property—

1           “(A) meets the requirements of subsection  
2           (a)(2), and

3           “(B) is of a character subject to deprecia-  
4           tion.

5           “(2) MOTOR VEHICLE.—A motor vehicle is de-  
6           scribed in this paragraph if the motor vehicle—

7           “(A) is manufactured primarily for use on  
8           public streets, roads, or highways (not including  
9           a vehicle operated exclusively on a rail or rails),  
10          and

11          “(B) has at least 2, but not more than 3,  
12          wheels.”.

13          (d) WAGE AND APPRENTICESHIP REQUIREMENTS.—  
14          Section 30C, as amended by this section, is further  
15          amended by redesignating subsections (g) and (h) as sub-  
16          sections (h) and (i) and by inserting after subsection (f)  
17          the following new subsection:

18          “(g) WAGE AND APPRENTICESHIP REQUIRE-  
19          MENTS.—

20          “(1) BASE CREDIT AMOUNT AND INCREASED  
21          CREDIT AMOUNT.—

22          “(A) IN GENERAL.—In the case of any  
23          qualified alternative fuel vehicle refueling prop-  
24          erty which does not satisfy the requirements of  
25          subparagraph (B), the amount of the credit de-

1           terminated under subsection (a) shall be 20 per-  
2           cent of such amount (determined without re-  
3           gard to this sentence).

4           “(B) INCREASED CREDIT FOR CERTAIN  
5           QUALIFIED ALTERNATIVE FUEL VEHICLE RE-  
6           FUELING PROPERTY MEETING PROJECT RE-  
7           QUIREMENTS.—

8           “(i) IN GENERAL.—In the case of any  
9           qualified alternative fuel vehicle refueling  
10          property which meets the project require-  
11          ments of this subparagraph, subparagraph  
12          (A) shall not apply.

13          “(ii) PROJECT REQUIREMENTS.—A  
14          project meets the requirements of this sub-  
15          paragraph if it is one of the following:

16                 “(I) A project which commences  
17                 construction prior to the date of the  
18                 enactment of this paragraph.

19                 “(II) A project which satisfies  
20                 the requirements of paragraphs (2)  
21                 and (3).

22          “(2) PREVAILING WAGE REQUIREMENTS.—

23                 “(A) IN GENERAL.—The requirements de-  
24                 scribed in this subparagraph with respect to  
25                 any qualified alternative fuel vehicle refueling

1 property are that the taxpayer shall ensure that  
2 any laborers and mechanics employed by con-  
3 tractors and subcontractors in the construction  
4 of such property shall be paid wages at rates  
5 not less than the prevailing rates for construc-  
6 tion, alteration, or repair of a similar character  
7 in the locality as most recently determined by  
8 the Secretary of Labor, in accordance with sub-  
9 chapter IV of chapter 31 of title 40, United  
10 States Code.

11 “(B) CORRECTION AND PENALTY RELATED  
12 TO FAILURE TO SATISFY WAGE REQUIRE-  
13 MENTS.—In the case of any taxpayer which  
14 fails to satisfy the requirement under subpara-  
15 graph (A) with respect to such qualified alter-  
16 native fuel vehicle refueling property, rules  
17 similar to the rules of section 45(b)(8)(B) shall  
18 apply for purposes of this paragraph.

19 “(3) APPRENTICESHIP REQUIREMENTS.—The  
20 requirements described in this subparagraph with re-  
21 spect to the construction of any qualified alternative  
22 fuel vehicle refueling property are as follows:

23 “(A) LABOR HOURS.—

24 “(i) PERCENTAGE OF TOTAL LABOR  
25 HOURS.—All contractors and subcontrac-

1           tors engaged in the performance of con-  
2           struction on any project shall, subject to  
3           subparagraph (B), ensure that not less  
4           than the applicable percentage of the total  
5           labor hours of such work be performed by  
6           qualified apprentices.

7                   “(ii) APPLICABLE PERCENTAGE.—For  
8           purposes of paragraph (1), the applicable  
9           percentage shall be—

10                   “(I) in the case of any applicable  
11           project the construction of which be-  
12           gins before January 1, 2023, 5 per-  
13           cent,

14                   “(II) in the case of any applica-  
15           ble project the construction of which  
16           begins after December 31, 2022, and  
17           before January 1, 2024, 10 percent,  
18           and

19                   “(III) in the case of any applica-  
20           ble project the construction of which  
21           begins after December 31, 2023, 15  
22           percent.

23                   “(B) APPRENTICE TO JOURNEYWORKER  
24           RATIO.—The requirement under subparagraph  
25           (A)(i) shall be subject to any applicable require-

1           ments for apprentice-to-journeyworker ratios of  
2           the Department of Labor or the applicable  
3           State apprenticeship agency.

4           “(C) PARTICIPATION.—Each contractor  
5           and subcontractor who employs 4 or more indi-  
6           viduals to perform construction, alteration, or  
7           repair work on an applicable project shall em-  
8           ploy 1 or more qualified apprentices to perform  
9           such work.

10          “(D) EXCEPTION.—

11           “(i) IN GENERAL.—Notwithstanding  
12           any other provision of this paragraph, this  
13           paragraph shall not apply in the case of a  
14           taxpayer who—

15           “(I) demonstrates a lack of avail-  
16           ability of qualified apprentices in the  
17           geographic area of the construction,  
18           alteration, or repair work, and

19           “(II) makes a good faith effort to  
20           comply with the requirements of this  
21           paragraph.

22           “(ii) GOOD FAITH EFFORT.—For pur-  
23           poses of clause (i), a taxpayer shall be  
24           deemed to have satisfied the requirements  
25           under such paragraph with respect to an

1 applicable project if such taxpayer has re-  
2 requested qualified apprentices from a reg-  
3 istered apprenticeship program, as defined  
4 in section 3131(e)(3)(B), and such request  
5 has been denied, provided that such denial  
6 is not the result of a refusal by the con-  
7 tractors or subcontractors engaged in the  
8 performance of construction, alteration, or  
9 repair work on such applicable project to  
10 comply with the established standards and  
11 requirements of such apprenticeship pro-  
12 gram.

13 “(E) DEFINITIONS.—For purposes of this  
14 paragraph—

15 “(i) LABOR HOURS.—The term ‘labor  
16 hours’ has the meaning given such term in  
17 section 45(b)(9)(E)(i).

18 “(ii) QUALIFIED APPRENTICE.—The  
19 term ‘qualified apprentice’ has the mean-  
20 ing given such term in section  
21 45(b)(9)(E)(ii).

22 “(4) REGULATIONS AND GUIDANCE.—The Sec-  
23 retary shall issue such regulations or other guidance  
24 as the Secretary determines necessary or appropriate  
25 to carry out the purposes of this subsection.”.

1 (e) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to property placed in service after  
3 December 31, 2021.

4 **SEC. 136406. REINSTATEMENT AND EXPANSION OF EM-**  
5 **LOYER-PROVIDED FRINGE BENEFITS FOR**  
6 **BICYCLE COMMUTING.**

7 (a) REPEAL OF SUSPENSION OF EXCLUSION FOR  
8 QUALIFIED BICYCLE COMMUTING BENEFITS.—Section  
9 132(f) is amended by striking paragraph (8).

10 (b) EXPANSION OF BICYCLE COMMUTING BENE-  
11 FITS.—Section 132(f)(5)(F) is amended to read as fol-  
12 lows:

13 “(F) DEFINITIONS RELATED TO BICYCLE  
14 COMMUTING BENEFITS.—

15 “(i) QUALIFIED BICYCLE COMMUTING  
16 BENEFIT.—The term ‘qualified bicycle  
17 commuting benefit’ means, with respect to  
18 any calendar year—

19 “(I) any employer reimbursement  
20 during the 15-month period beginning  
21 with the first day of such calendar  
22 year for reasonable expenses incurred  
23 by the employee during such calendar  
24 year for the purchase (including asso-  
25 ciated finance charges), lease, rental

1 (including a bikeshare), improvement,  
2 repair, or storage of qualified com-  
3 muting property, or

4 “(II) the provision by the em-  
5 ployer to the employee during such  
6 calendar year of the use (including a  
7 bikeshare), improvement, repair, or  
8 storage of qualified commuting prop-  
9 erty,

10 if the employee regularly uses such quali-  
11 fied commuting property for travel between  
12 the employee’s residence, place of employ-  
13 ment, or a mass transit facility that con-  
14 nects the employee to their residence or  
15 place of employment.

16 “(ii) QUALIFIED COMMUTING PROP-  
17 erty.—The term ‘qualified commuting  
18 property’ means—

19 “(I) any bicycle (other than a bi-  
20 cycle equipped with any motor),

21 “(II) any electric bicycle which  
22 meets the requirements of section  
23 36E(c)(5),

1                   “(III) any 2- or 3-wheel scooter  
2                   (other than a scooter equipped with  
3                   any motor), and

4                   “(IV) any 2- or 3-wheel scooter  
5                   propelled by an electric motor if such  
6                   motor does not provide assistance if  
7                   the speed of such scooter exceeds 20  
8                   miler per hour (or if the speed of such  
9                   scooter is not capable of exceeding 20  
10                  miles per hour) and the weight of  
11                  such scooter does not exceed 100  
12                  pounds.

13                  “(iii) BIKESHARE.—The term  
14                  ‘bikeshare’ means a rental operation at  
15                  which qualified commuting property is  
16                  made available to customers to pick up and  
17                  drop off for point-to-point use within a de-  
18                  fined geographic area.”.

19                  (c) LIMITATION ON EXCLUSION.—Section  
20                  132(f)(2)(C) is amended to read as follows:

21                  “(C) 30 percent of the dollar amount in ef-  
22                  fect under subparagraph (B) per month in the  
23                  case of any qualified bicycle commuting ben-  
24                  efit.”.

1 (d) NO CONSTRUCTIVE RECEIPT.—Section 132(f)(4)  
2 is amended by striking “(other than a qualified bicycle  
3 commuting reimbursement)”.

4 (e) CONFORMING AMENDMENT.—Section  
5 132(f)(1)(D) is amended by striking “reimbursement”  
6 and inserting “benefit”.

7 (f) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2021.

10 **SEC. 136407. CREDIT FOR CERTAIN NEW ELECTRIC BICY-**  
11 **CLES.**

12 (a) IN GENERAL.—Subpart C of part IV of sub-  
13 chapter A of chapter 1, as amended by the preceding pro-  
14 visions of this Act, is amended by inserting after section  
15 36D the following new section:

16 **“SEC. 36E. ELECTRIC BICYCLES.**

17 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
18 lowed as a credit against the tax imposed by this chapter  
19 for the taxable year an amount equal to 15 percent of the  
20 cost of each qualified electric bicycle placed in service by  
21 the taxpayer during such taxable year.

22 “(b) LIMITATIONS.—

23 “(1) LIMITATION ON COST PER ELECTRIC BICY-  
24 CLE TAKEN INTO ACCOUNT.—The amount taken

1 into account under subsection (a) as the cost of any  
2 qualified electric bicycle shall not exceed \$5,000.

3 “(2) BICYCLE LIMITATION WITH RESPECT TO  
4 CREDIT.—

5 “(A) LIMITATION ON NUMBER OF PER-  
6 SONAL-USE BICYCLES.—In the case of any tax-  
7 payer for any taxable year, the number of per-  
8 sonal-use bicycles taken into account under sub-  
9 section (a) shall not exceed the excess (if any)  
10 of—

11 “(i) 1 (2 in the case of a joint return),  
12 reduced by

13 “(ii) the aggregate number of bicycles  
14 taken into account by the taxpayer under  
15 subsection (a) for the 2 preceding taxable  
16 years.

17 “(B) PHASEOUT BASED ON MODIFIED AD-  
18 JUSTED GROSS INCOME.—So much of the credit  
19 allowed under subsection (a) to any taxpayer  
20 for any taxable year as would (but for this sub-  
21 paragraph) be treated under subsection (c)(2)  
22 as a credit allowable under subpart C shall be  
23 reduced by \$200 for each \$1,000 (or fraction  
24 thereof) by which the taxpayer’s modified ad-  
25 justed gross income exceeds—

1                   “(i) \$150,000 in the case of a joint  
2                   return or a surviving spouse (as defined in  
3                   section 2(a)),

4                   “(ii) \$112,500 in the case of a head  
5                   of household (as defined in section 2(b)),  
6                   and

7                   “(iii) \$75,000 in the case of a tax-  
8                   payer not described in clause (i) or (ii).

9                   “(C) MODIFIED ADJUSTED GROSS IN-  
10                  COME.—For purposes of subparagraph (B), the  
11                  term ‘modified adjusted gross income’ means  
12                  adjusted gross income increased by any amount  
13                  excluded from gross income under section 911,  
14                  931, or 933.

15                  “(D) SPECIAL RULE FOR DETERMINATION  
16                  OF MODIFIED ADJUSTED GROSS INCOME.—The  
17                  modified adjusted gross income of the taxpayer  
18                  that is taken into account for purposes of this  
19                  paragraph shall be the lesser of—

20                  “(i) the modified adjusted gross in-  
21                  come for the taxable year in which the  
22                  credit is claimed, or

23                  “(ii) the modified adjusted gross in-  
24                  come for the immediately preceding taxable  
25                  year.

1       “(c) QUALIFIED ELECTRIC BICYCLE.—For purposes  
2 of this section, the term ‘qualified electric bicycle’ means  
3 a bicycle—

4           “(1) the original use of which commences with  
5 the taxpayer,

6           “(2) which is acquired for use by the taxpayer  
7 and not for resale,

8           “(3) which is made by a qualified manufacturer  
9 and is labeled with the qualified vehicle identification  
10 number assigned to such bicycle by such manufac-  
11 turer,

12           “(4) with respect to which the aggregate  
13 amount paid for such acquisition does not exceed  
14 \$8,000, and

15           “(5) which is equipped with—

16                   “(A) fully operable pedals,

17                   “(B) a saddle or seat for the rider, and

18                   “(C) an electric motor of less than 750  
19 watts which is designed to provided assistance  
20 in propelling the bicycle and—

21                           “(i) does not provide such assistance  
22 if the bicycle is moving in excess of 20  
23 miler per hour, or

24                           “(ii) if such motor only provides such  
25 assistance when the rider is pedaling, does

1 not provide such assistance if the bicycle is  
2 moving in excess of 28 miles per hour.

3 “(d) VIN NUMBER REQUIREMENT.—

4 “(1) IN GENERAL.—No credit shall be allowed  
5 under subsection (a) with respect to any qualified  
6 electric bicycle unless the taxpayer includes the  
7 qualified vehicle identification number of such bicy-  
8 cle on the return of tax for the taxable year.

9 “(2) QUALIFIED VEHICLE IDENTIFICATION  
10 NUMBER.—For purposes of this section, the term  
11 ‘qualified vehicle identification number’ means, with  
12 respect to any bicycle, the vehicle identification num-  
13 ber assigned to such bicycle by a qualified manufac-  
14 turer pursuant to the methodology referred to in  
15 paragraph (3).

16 “(3) QUALIFIED MANUFACTURER.—For pur-  
17 poses of this section, the term ‘qualified manufac-  
18 turer’ means any manufacturer of qualified electric  
19 bicycles which enters into an agreement with the  
20 Secretary which provides that such manufacturer  
21 will—

22 “(A) assign a vehicle identification number  
23 to each qualified electric bicycle produced by  
24 such manufacturer utilizing a methodology that  
25 will ensure that such number (including any al-

1           phanumeric) is unique to such bicycle (by uti-  
2           lizing numbers or letters which are unique to  
3           such manufacturer or by such other method as  
4           the Secretary may provide),

5           “(B) label such bicycle with such number  
6           in such manner as the Secretary may provide,  
7           and

8           “(C) make periodic written reports to the  
9           Secretary (at such times and in such manner as  
10          the Secretary may provide) of the vehicle identi-  
11          fication numbers so assigned and including  
12          such information as the Secretary may require  
13          with respect to the qualified electric bicycle to  
14          which such number was so assigned.

15       “(e) SPECIAL RULES.—

16           “(1) BASIS REDUCTION.—For purposes of this  
17          subtitle, the basis of any property for which a credit  
18          is allowable under subsection (a) shall be reduced by  
19          the amount of such credit so allowed (determined  
20          without regard to subsection (c)).

21           “(2) NO DOUBLE BENEFIT.—The amount of  
22          any deduction or other credit allowable under this  
23          chapter for a qualified electric bicycle for which a  
24          credit is allowable under subsection (a) shall be re-  
25          duced by the amount of credit allowed under such

1 subsection for such vehicle (determined without re-  
2 gard to subsection (c)).

3 “(3) PROPERTY USED OUTSIDE UNITED STATES  
4 NOT QUALIFIED.—No credit shall be allowable under  
5 subsection (a) with respect to any property referred  
6 to in section 50(b)(1).

7 “(4) RECAPTURE.—The Secretary shall, by reg-  
8 ulations, provide for recapturing the benefit of any  
9 credit allowable under subsection (a) with respect to  
10 any property which ceases to be property eligible for  
11 such credit.

12 “(5) ELECTION NOT TO TAKE CREDIT.—No  
13 credit shall be allowed under subsection (a) for any  
14 bicycle if the taxpayer elects to not have this section  
15 apply to such bicycle.

16 “(f) TREATMENT OF CERTAIN POSSESSIONS.—

17 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR  
18 CODE TAX SYSTEMS.—The Secretary shall pay to  
19 each possession of the United States which has a  
20 mirror code tax system amounts equal to the loss (if  
21 any) to that possession by reason of the application  
22 of the provisions of this section (determined without  
23 regard to this subsection). Such amounts shall be  
24 determined by the Secretary based on information

1 provided by the government of the respective posses-  
2 sion.

3 “(2) PAYMENTS TO OTHER POSSESSIONS.—The  
4 Secretary shall pay to each possession of the United  
5 States which does not have a mirror code tax system  
6 amounts estimated by the Secretary as being equal  
7 to the aggregate benefits (if any) that would have  
8 been provided to residents of such possession by rea-  
9 son of the provisions of this section if a mirror code  
10 tax system had been in effect in such possession.  
11 The preceding sentence shall not apply unless the re-  
12 spective possession has a plan which has been ap-  
13 proved by the Secretary under which such possession  
14 will promptly distribute such payments to its resi-  
15 dents.

16 “(3) MIRROR CODE TAX SYSTEM; TREATMENT  
17 OF PAYMENTS.—Rules similar to the rules of para-  
18 graphs (4) and (5) of section 21(h) shall apply for  
19 purposes of this section.

20 “(g) TERMINATION.—This section shall not apply to  
21 bicycles placed in service after December 31, 2031.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 38(b) is amended by striking “plus”  
24 at the end of paragraph (39), by striking the period  
25 at the end of paragraph (40) and inserting “, plus”,

1 and by adding at the end the following new para-  
2 graph:

3 “(41) the portion of the electric bicycles credit  
4 to which section 36E(c)(1) applies.”.

5 (2) Section 1016(a) is amended by striking  
6 “and” at the end of paragraph (37), by striking the  
7 period at the end of paragraph (38) and inserting “,  
8 and”, and by adding at the end the following new  
9 paragraph:

10 “(39) to the extent provided in section  
11 36E(f)(1).”.

12 (3) Section 6211(b)(4)(A) of such Code is  
13 amended by inserting “36E by reason of subsection  
14 (c)(2) thereof,” before “32,”.

15 (4) Section 6213(g)(2), as amended by the pre-  
16 ceding provisions of this Act, is amended—

17 (A) in subparagraph (U), by striking  
18 “and” at the end,

19 (B) in subparagraph (V), by striking the  
20 period at the end and inserting “, and”, and

21 (C) by adding at the end the following:

22 “(W) an omission of a correct vehicle iden-  
23 tification number required under section 36E(e)  
24 (relating to electric bicycles credit) to be in-  
25 cluded on a return.”.

1           (5) Section 6501(m) is amended by inserting  
2           “36E(f)(4),” after “35(g)(11),”.

3           (6) Section 1324(b)(2) of title 31, United  
4           States Code, is amended by inserting “36E,” after  
5           “36B,”.

6           (c) CLERICAL AMENDMENT.—The table of sections  
7           for subpart B of part IV of subchapter A of chapter 1  
8           is amended by adding at the end the following new item:  
          “Sec. 36E. Electric bicycles.”.

9           (d) EFFECTIVE DATE.—The amendments made by  
10          this section shall apply to property placed in service after  
11          the date of the enactment of this Act, in taxable years  
12          ending after such date.

13                   **PART 5—INVESTMENT IN THE GREEN**  
14                                   **WORKFORCE**

15   **SEC. 136501. EXTENSION OF THE ADVANCED ENERGY**  
16                   **PROJECT CREDIT.**

17          (a) EXTENSION OF CREDIT.—Section 48C is amend-  
18          ed by redesignating subsection (e) as subsection (f) and  
19          by inserting after subsection (d) the following new sub-  
20          section:

21               “(e) ADDITIONAL ALLOCATIONS.—

22                   “(1) IN GENERAL.—Not later than 180 days  
23                   after the date of enactment of this subsection, the  
24                   Secretary, after consultation with the Secretary of  
25                   Energy, shall establish a program to consider and

1 award certifications for qualified investments eligible  
2 for credits under this section to qualifying advanced  
3 energy project sponsors.

4 “(2) ANNUAL LIMITATION.—

5 “(A) IN GENERAL.—The amount of credits  
6 that may be allocated under this subsection  
7 during any calendar year shall not exceed the  
8 annual credit limitation with respect to such  
9 year.

10 “(B) ANNUAL CREDIT LIMITATION.—

11 “(i) IN GENERAL.—For purposes of  
12 this subsection, the term ‘annual credit  
13 limitation’ means \$2,500,000,000 for each  
14 of calendar years 2022 through 2031, and  
15 zero thereafter.

16 “(ii) AMOUNT SET ASIDE FOR AUTO-  
17 MOTIVE COMMUNITIES.—

18 “(I) IN GENERAL.—For purposes  
19 of clause (i), \$400,000,000 of the an-  
20 nual credit limitation for each of cal-  
21 endar years 2022 through 2031 shall  
22 be allocated to qualified investments  
23 located within automotive commu-  
24 nities.

1                   “(II) AUTOMOTIVE COMMU-  
2                   NITIES.—For purposes of this clause,  
3                   the term ‘automotive communities’  
4                   means a census tract and any directly  
5                   adjoining census tract, including a no-  
6                   population census tract, that has ex-  
7                   perienced major job losses in the auto-  
8                   motive manufacturing sector since  
9                   January 1, 1994, as determined by  
10                  the Secretary after consultation with  
11                  the Secretary of Energy and Secretary  
12                  of Labor.

13                  “(C) CARRYOVER OF UNUSED LIMITA-  
14                  TION.—If the annual credit limitation for any  
15                  calendar year exceeds the aggregate amount  
16                  designated for such year under this subsection,  
17                  such limitation for the succeeding calendar year  
18                  shall be increased by the amount of such excess.  
19                  No amount may be carried under the preceding  
20                  sentence to any calendar year after 2036.

21                  “(3) CERTIFICATIONS.—

22                  “(A) APPLICATION REQUIREMENT.—Each  
23                  applicant for certification under this subsection  
24                  shall submit an application at such time and

1 containing such information as the Secretary  
2 may require.

3 “(B) TIME TO MEET CRITERIA FOR CER-  
4 TIFICATION.—Each applicant for certification  
5 shall have 2 years from the date of acceptance  
6 by the Secretary of the application during  
7 which to provide to the Secretary evidence that  
8 the requirements of the certification have been  
9 met.

10 “(C) PERIOD OF ISSUANCE.—An applicant  
11 which receives a certification shall have 2 years  
12 from the date of issuance of the certification in  
13 order to place the project in service and to no-  
14 tify the Secretary that such project has been so  
15 placed in service, and if such project is not  
16 placed in service (and the Secretary so notified)  
17 by that time period, then the certification shall  
18 no longer be valid. If any certification is re-  
19 voked under this subparagraph, the amount of  
20 the annual credit limitation under paragraph  
21 (2) for the calendar year in which such certifi-  
22 cation is revoked shall be increased by the  
23 amount of the credit with respect to such re-  
24 voked certification.

1           “(4) SELECTION CRITERIA.—Selection criteria  
2 similar to those in subsection (d)(3) shall apply, ex-  
3 cept that in determining designations under this  
4 subsection, the Secretary, after consultation with the  
5 Secretary of Energy, shall—

6           “(A) in addition to the factors described in  
7 subsection (d)(3)(B), take into consideration  
8 which projects—

9           “(i) will provide the greatest net im-  
10 pact in avoiding or reducing anthropogenic  
11 emissions of greenhouse gases, as deter-  
12 mined by the Secretary after consultation  
13 with the Administrator of the Environ-  
14 mental Protection Agency,

15           “(ii) will provide the greatest domestic  
16 job creation (both direct and indirect) dur-  
17 ing the credit period,

18           “(iii) will provide the greatest job cre-  
19 ation within the vicinity of the project, par-  
20 ticularly with respect to—

21           “(I) low-income communities (as  
22 described in section 45D(e)), and

23           “(II) dislocated workers who  
24 were previously employed in manufac-

1 turing, coal power plants, or coal min-  
2 ing, and

3 “(iv) will provide the greatest job cre-  
4 ation in areas with a population that is at  
5 risk of experiencing higher or more adverse  
6 human health or environmental effects and  
7 a significant portion of such population is  
8 comprised of communities of color, low-in-  
9 come communities, Tribal and Indigenous  
10 communities, or individuals formerly em-  
11 ployed in the fossil fuel industry, and

12 “(B) give the highest priority to projects  
13 which—

14 “(i) manufacture (other than pri-  
15 marily assembly of components) property  
16 described in a subclause of subsection  
17 (c)(1)(A)(i) (or components thereof), and

18 “(ii) have the greatest potential for  
19 commercial deployment of new applica-  
20 tions.

21 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-  
22 retary shall, upon allocating a credit under this sub-  
23 section, publicly disclose the identity of the appli-  
24 cant, the amount of the credit with respect to such

1 applicant, and the project location for which such  
2 credit was allocated.

3 “(6) CREDIT CONDITIONED UPON WAGE AND  
4 APPRENTICESHIP REQUIREMENTS.—No credit shall  
5 be allocated for a project under this subsection un-  
6 less the project meets the prevailing wage require-  
7 ments of paragraph (7) and the apprenticeship re-  
8 quirements of paragraph (8).

9 “(7) PREVAILING WAGE REQUIREMENTS.—

10 “(A) IN GENERAL.—The requirements de-  
11 scribed in this paragraph with respect to a  
12 project are that the taxpayer shall ensure that  
13 any laborers and mechanics employed by con-  
14 tractors and subcontractors in the re-equipping,  
15 expansion, or establishment of an industrial or  
16 manufacturing facility shall be paid wages at  
17 rates not less than the prevailing rates for con-  
18 struction, alteration, or repair of a similar char-  
19 acter in the locality as most recently determined  
20 by the Secretary of Labor, in accordance with  
21 subchapter IV of chapter 31 of title 40, United  
22 States Code.

23 “(B) CORRECTION AND PENALTY RELATED  
24 TO FAILURE TO SATISFY WAGE REQUIRE-  
25 MENTS.—

1                   “(i) IN GENERAL.—In the case of any  
2 taxpayer which fails to satisfy the require-  
3 ment under subparagraph (A) with respect  
4 to any project—

5                   “(I) rules similar to the rules of  
6 section 45(b)(8)(B) shall apply for  
7 purposes of this paragraph, and

8                   “(II) if the failure to satisfy the  
9 requirement under subparagraph (A)  
10 is not corrected pursuant to the rules  
11 described in subclause (I), the certifi-  
12 cation with respect to the re-equip-  
13 ping, expansion, or establishment of  
14 an industrial or manufacturing facility  
15 shall no longer be valid.

16                   “(8) APPRENTICESHIP REQUIREMENTS.—The  
17 requirements described in this subparagraph with re-  
18 spect to a project are as follows:

19                   “(A) LABOR HOURS.—

20                   “(i) PERCENTAGE OF TOTAL LABOR  
21 HOURS.—All contractors and subcontract-  
22 tors engaged in the performance of con-  
23 struction, alteration, or repair work on any  
24 project shall, subject to subparagraph (B),  
25 ensure that not less than the applicable

1 percentage of the total labor hours of such  
2 work be performed by qualified appren-  
3 tices.

4 “(ii) APPLICABLE PERCENTAGE.—For  
5 purposes of paragraph (1), the applicable  
6 percentage shall be—

7 “(I) in the case of any applicable  
8 project the construction of which be-  
9 gins before January 1, 2023, 5 per-  
10 cent,

11 “(II) in the case of any applica-  
12 ble project the construction of which  
13 begins after December 31, 2022, and  
14 before January 1, 2024, 10 percent,  
15 and

16 “(III) in the case of any applica-  
17 ble project the construction of which  
18 begins after December 31, 2023, 15  
19 percent.

20 “(B) APPRENTICE TO JOURNEYWORKER  
21 RATIO.—The requirement under subparagraph  
22 (A)(i) shall be subject to any applicable require-  
23 ments for apprentice-to-journeyworker ratios of  
24 the Department of Labor or the applicable  
25 State apprenticeship agency.

1           “(C) PARTICIPATION.—Each contractor  
2           and subcontractor who employs 4 or more indi-  
3           viduals to perform construction, alteration, or  
4           repair work on an applicable project shall em-  
5           ploy 1 or more qualified apprentices to perform  
6           such work.

7           “(D) EXCEPTION.—

8           “(i) IN GENERAL.—Notwithstanding  
9           any other provision of this paragraph, this  
10          paragraph shall not apply in the case of a  
11          taxpayer who—

12                   “(I) demonstrates a lack of avail-  
13                   ability of qualified apprentices in the  
14                   geographic area of the construction,  
15                   alteration, or repair work, and

16                   “(II) makes a good faith effort to  
17                   comply with the requirements of this  
18                   paragraph.

19           “(ii) GOOD FAITH EFFORT.—For pur-  
20          poses of clause (i), a taxpayer shall be  
21          deemed to have satisfied the requirements  
22          under such paragraph with respect to an  
23          applicable project if such taxpayer has re-  
24          quested qualified apprentices from a reg-  
25          istered apprenticeship program, as defined

1 in section 3131(e)(3)(B), and such request  
2 has been denied, provided that such denial  
3 is not the result of a refusal by the con-  
4 tractors or subcontractors engaged in the  
5 performance of construction, alteration, or  
6 repair work on such applicable project to  
7 comply with the established standards and  
8 requirements of such apprenticeship pro-  
9 gram.

10 “(E) DEFINITIONS.—For purposes of this  
11 paragraph—

12 “(i) LABOR HOURS.—The term ‘labor  
13 hours’ has the meaning given such term in  
14 section 45(b)(9)(E)(i).

15 “(ii) QUALIFIED APPRENTICE.—The  
16 term ‘qualified apprentice’ has the mean-  
17 ing given such term in section  
18 45(b)(9)(E)(ii).”.

19 (b) MODIFICATION OF QUALIFYING ADVANCED EN-  
20 ERGY PROJECTS.—

21 (1) INCLUSION OF WATER AS A RENEWABLE  
22 RESOURCE.—Section 48C(c)(1)(A)(i)(I) is amended  
23 by inserting “water,” after “sun,”.

24 (2) ENERGY STORAGE SYSTEMS.—Section  
25 48C(c)(1)(A)(i)(II) is amended by striking “an en-

1       ergy storage system for use with electric or hybrid-  
2       electric motor vehicles” and inserting “energy stor-  
3       age systems and components”.

4           (3) MODIFICATION OF QUALIFYING ELECTRIC  
5       GRID PROPERTY.—Section 48C(c)(1)(A)(i)(III) is  
6       amended to read as follows:

7                           “(III) electric grid modernization  
8                           equipment or components,”.

9           (4) USE OF CAPTURED CARBON.—Section  
10       48C(c)(1)(A)(i)(IV) is amended by striking “seques-  
11       ter” and insert “use or sequester”.

12           (5) ELECTRIC AND FUEL CELL VEHICLES.—  
13       Section 48C(c)(1)(A)(i)(VI) is amended—

14                   (A) by striking “new qualified plug-in elec-  
15       tric drive motor vehicles (as defined by section  
16       30D)” and inserting “vehicles described in sec-  
17       tion 36C, 45Y, and 36E”, and

18                   (B) and striking “and power control units”  
19       and inserting “power control units, and equip-  
20       ment used for charging or refueling”.

21           (6) PROPERTY FOR PRODUCTION OF HYDRO-  
22       GEN.—Section 48C(c)(1)(A)(i) is amended by strik-  
23       ing “or” at the end of subclause (VI), by redesign-  
24       nating subclause (VII) as subclause (VIII), and by in-

1       serting after subclause (VI) the following new sub-  
2       clause:

3                               “(VII) property designed to be  
4                               used to produce qualified clean hydro-  
5                               gen (as defined in section 45X), or”.

6               (7) RECYCLING OF ADVANCED ENERGY PROP-  
7       ERTY.—Section 48C(c)(1) is amended by adding at  
8       the end the following new subparagraph:

9                               “(C) SPECIAL RULE FOR CERTAIN RECY-  
10                              CLING FACILITIES.—A facility which recycles  
11                              batteries or similar energy storage property de-  
12                              scribed in subparagraph (A)(i) shall be treated  
13                              as part of a manufacturing facility described in  
14                              such subparagraph.”.

15       (c) EFFECTIVE DATE.—The amendments made by  
16       this section shall take effect on the date of the enactment  
17       of this Act.

18       **SEC. 136502. LABOR COSTS OF INSTALLING MECHANICAL**  
19                               **INSULATION PROPERTY.**

20       (a) IN GENERAL.—Subpart D of part IV of sub-  
21       chapter A of chapter 1, as amended by the preceding pro-  
22       visions of this Act, is further amended by adding at the  
23       end the following new section:

1 **“SEC. 45Z. LABOR COSTS OF INSTALLING MECHANICAL IN-**  
2 **SULATION PROPERTY.**

3 “(a) IN GENERAL.—For purposes of section 38, the  
4 mechanical insulation labor costs credit determined under  
5 this section for any taxable year is an amount equal to  
6 10 percent of the mechanical insulation labor costs paid  
7 or incurred by the taxpayer during such taxable year.

8 “(b) MECHANICAL INSULATION LABOR COSTS.—For  
9 purposes of this section—

10 “(1) IN GENERAL.—The term ‘mechanical insu-  
11 lation labor costs’ means the labor cost of installing  
12 mechanical insulation property with respect to a me-  
13 chanical system referred to in paragraph (2)(A)  
14 which was originally placed in service not less than  
15 1 year before the date on which such mechanical in-  
16 sulation property is installed.

17 “(2) MECHANICAL INSULATION PROPERTY.—  
18 The term ‘mechanical insulation property’ means in-  
19 sulation materials, and facings and accessory prod-  
20 ucts installed in connection to such insulation mate-  
21 rials—

22 “(A) placed in service in connection with a  
23 mechanical system which—

24 “(i) is located in the United States,

25 “(ii) is of a character subject to an al-  
26 lowance for depreciation, and

1                   “(iii) meets the requirements of sec-  
2                   tion 434.403 of title 10, Code of Federal  
3                   Regulations (as in effect on the date of en-  
4                   actment of this section), and

5                   “(B) which result in a reduction in energy  
6                   loss from the mechanical system which is great-  
7                   er than the expected reduction from the instal-  
8                   lation of insulation materials which meet the  
9                   minimum requirements of Reference Standard  
10                  90.1 (as defined in section 179D(c)(2)).

11               “(c) TERMINATION.—This section shall not apply to  
12               mechanical insulation labor costs paid or incurred after  
13               December 31, 2031.”.

14               (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
15               NESS CREDIT.—Section 38(b), as amended by the pre-  
16               ceding provisions of this Act, is further amended by strik-  
17               ing “plus” at the end of paragraph (40), by striking the  
18               period at the end of paragraph (41) and inserting “, plus”,  
19               and by adding at the end the following new paragraph:

20                   “(42) the mechanical insulation labor costs  
21                   credit determined under section 45Z(a).”.

22               (c) CONFORMING AMENDMENTS.—

23                   (1) Section 280C is amended by adding at the  
24                   end the following new subsection:

1           “(i) MECHANICAL INSULATION LABOR COSTS CRED-  
2 IT.—

3           “(1) IN GENERAL.—No deduction shall be al-  
4 lowed for that portion of the mechanical insulation  
5 labor costs (as defined in section 45Z(b)) otherwise  
6 allowable as deduction for the taxable year which is  
7 equal to the amount of the credit determined for  
8 such taxable year under section 45Z(a).

9           “(2) SIMILAR RULE WHERE TAXPAYER CAP-  
10 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

11           “(A) the amount of the credit determined  
12 for the taxable year under section 45Z(a), ex-  
13 ceeds

14           “(B) the amount of allowable as a deduc-  
15 tion for such taxable year for mechanical insu-  
16 lation labor costs (determined without regard to  
17 paragraph (1)),

18 the amount chargeable to capital account for the  
19 taxable year for such costs shall be reduced by the  
20 amount of such excess.”.

21           (2) The table of sections for subpart D of part  
22 IV of subchapter A of chapter 1, as amended by the  
23 preceding provisions of this Act, is further amended  
24 by adding at the end the following new item:

“Sec. 45Z. Labor costs of installing mechanical insulation property.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to amounts paid or incurred after  
3 December 31, 2021, in taxable years ending after such  
4 date.

5 **PART 6—ENVIRONMENTAL JUSTICE**

6 **SEC. 136601. QUALIFIED ENVIRONMENTAL JUSTICE PRO-**  
7 **GRAM CREDIT.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-  
9 chapter A of chapter 1, as amended by the preceding pro-  
10 visions of this Act, is amended by inserting after section  
11 36E the following new section:

12 **“SEC. 36F. QUALIFIED ENVIRONMENTAL JUSTICE PRO-**  
13 **GRAMS.**

14 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
15 gible educational institution, there shall be allowed as a  
16 credit against the tax imposed by this subtitle for any tax-  
17 able year an amount equal to the applicable percentage  
18 of the amounts paid or incurred by such taxpayer during  
19 such taxable year which are necessary for a qualified envi-  
20 ronmental justice program.

21 “(b) QUALIFIED ENVIRONMENTAL JUSTICE PRO-  
22 GRAM.—For purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified envi-  
24 ronmental justice program’ means a program con-  
25 ducted by one or more eligible educational institu-

1 tions that is designed to address, or improve data  
2 about, qualified environmental stressors for the pri-  
3 mary purpose of improving, or facilitating the im-  
4 provement of, health and economic outcomes of indi-  
5 viduals residing in low-income areas or areas that  
6 experience, or are at risk of experiencing, multiple  
7 exposures to qualified environmental stressors.

8 “(2) QUALIFIED ENVIRONMENTAL STRESSOR.—  
9 The term ‘qualified environmental stressor’ means,  
10 with respect to an area, a contamination of the air,  
11 water, soil, or food with respect to such area or a  
12 change relative to historical norms of the weather  
13 conditions of such area, including—

14 “(A) toxic pollutants (such as lead, pes-  
15 ticides, or fine particulate matter) in air, soil,  
16 food, or water,

17 “(B) high rates of asthma prevalence and  
18 incidence, and

19 “(C) such other adverse human health or  
20 environmental effects as are identified by the  
21 Secretary.

22 “(c) ELIGIBLE EDUCATIONAL INSTITUTION.—For  
23 purposes of this section, the term ‘eligible educational in-  
24 stitution’ means an institution of higher education (as  
25 such term is defined in section 101 or 102(c) of the High-

1 er Education Act of 1965) that is eligible to participate  
2 in a program under title IV of such Act.

3 “(d) APPLICABLE PERCENTAGE.—For purposes of  
4 this section, the term ‘applicable percentage’ means—

5 “(1) in the case of a program involving material  
6 participation of faculty and students of an institu-  
7 tion described in section 371(a) of the Higher Edu-  
8 cation Act of 1965, 30 percent, and

9 “(2) in all other cases, 20 percent.

10 “(e) CREDIT ALLOCATION.—

11 “(1) ALLOCATION.—

12 “(A) IN GENERAL.—The Secretary shall  
13 allocate credit dollar amounts under this section  
14 to eligible educational institutions, for qualified  
15 environmental justice programs, that—

16 “(i) submit applications at such time  
17 and in such manner as the Secretary may  
18 provide, and

19 “(ii) are selected by the Secretary  
20 under subparagraph (B).

21 “(B) SELECTION CRITERIA.—The Sec-  
22 retary, after consultation with the Secretary of  
23 Energy, the Secretary of Education, the Sec-  
24 retary of Health and Human Services, and the  
25 Administrator of the Environmental Protection

1 Agency, shall select applications on the basis of  
2 the following criteria:

3 “(i) The extent of participation of fac-  
4 ulty and students of an institution de-  
5 scribed in section 371(a) of the Higher  
6 Education Act of 1965.

7 “(ii) The extent of the expected effect  
8 on the health or economic outcomes of in-  
9 dividuals residing in areas within the  
10 United States that are low-income areas or  
11 areas that experience, or are at risk of ex-  
12 perience, multiple exposures to qualified  
13 environmental stressors.

14 “(iii) The creation or significant ex-  
15 pansion of qualified environmental justice  
16 programs.

17 “(2) LIMITATIONS.—

18 “(A) IN GENERAL.—The amount of the  
19 credit determined under this section for any  
20 taxable year to any eligible educational institu-  
21 tion for any qualified environmental justice pro-  
22 gram shall not exceed the excess of—

23 “(i) the credit dollar amount allocated  
24 to such institution for such program under  
25 this subsection, over

1           “(ii) the credits previously claimed by  
2           such institution for such program under  
3           this section.

4           “(B) FIVE-YEAR LIMITATION.—No  
5           amounts paid or incurred after the 5-year pe-  
6           riod beginning on the date a credit dollar  
7           amount is allocated to an eligible educational  
8           institution for a qualified environmental justice  
9           program shall be taken into account under sub-  
10          section (a) with respect to such institution for  
11          such program.

12          “(C) ALLOCATION LIMITATION.—The total  
13          amount of credits that may be allocated under  
14          the program shall not exceed—

15                 “(i) \$1,000,000,000 for each of tax-  
16                 able years 2022 through 2031, and

17                 “(ii) \$0 for each subsequent year.

18          “(D) CARRYOVER OF UNUSED LIMITA-  
19          TION.—If the annual credit limitation for any  
20          calendar year exceeds the aggregate amount  
21          designated for such year under this subsection,  
22          such limitation for the succeeding calendar year  
23          shall be increased by the amount of such excess.  
24          No amount may be carried under the preceding  
25          sentence to any calendar year after 2036.

1 “(f) REQUIREMENTS.—

2 “(1) IN GENERAL.—An eligible educational in-  
3 stitution that has been allocated credit dollar  
4 amounts under this section for a qualified environ-  
5 mental justice project for a taxable year shall—

6 “(A) make publicly available the applica-  
7 tion submitted to the Secretary under sub-  
8 section (e) with respect to such project, and

9 “(B) submit an annual report to the Sec-  
10 retary that describes the amounts paid or in-  
11 curred for, and expected impact of, such  
12 project.

13 “(2) FAILURE TO COMPLY.—In the case of an  
14 eligible education institution that has failed to com-  
15 ply with the requirements of this subsection, the  
16 credit dollar amount allocated to such institution  
17 under this section is deemed to be \$0.

18 “(g) PUBLIC DISCLOSURE.—The Secretary, upon  
19 making an allocation of credit dollar amounts under this  
20 section, shall publicly disclose—

21 “(1) the identity of the eligible educational in-  
22 stitution receiving the allocation, and

23 “(2) the amount of such allocation.”.

24 (b) CONFORMING AMENDMENTS.—



1 (2) ADJUSTMENT FOR INFLATION.—

2 (A) Section 4611(c)(2)(A) is amended by  
3 striking “9.7 cents” and inserting “16.4 cents”.

4 (B) Section 4611(c) is amended by adding  
5 at the end the following:

6 “(3) ADJUSTMENT FOR INFLATION.—

7 “(A) IN GENERAL.—In the case of a year  
8 beginning after 2022, the amount in paragraph  
9 (2)(A) shall be increased by an amount equal  
10 to—

11 “(i) such amount, multiplied by

12 “(ii) the cost-of-living adjustment de-  
13 termined under section 1(f)(3) for the cal-  
14 endar year, determined by substituting  
15 ‘calendar year 2021’ for ‘calendar year  
16 2016’ in subparagraph (A)(ii) thereof.

17 “(B) ROUNDING.—If any amount as ad-  
18 justed under subparagraph (A) is not a multiple  
19 of \$0.01, such amount shall be rounded to the  
20 next lowest multiple of \$0.01.”.

21 (b) AUTHORITY FOR ADVANCES.—Section  
22 9507(d)(3)(B) is amended by striking “December 31,  
23 1995” and inserting “December 31, 2031”.

24 (c) EFFECTIVE DATE.—The amendments made by  
25 this section shall take effect on January 1, 2022.

1 **PART 8—APPROPRIATIONS**

2 **SEC. 136701. APPROPRIATIONS.**

3 Immediately upon the enactment of this Act, in addi-  
4 tion to amounts otherwise available, there are appro-  
5 priated for fiscal year 2022, out of any money in the  
6 Treasury not otherwise appropriated, \$3,831,000,000 to  
7 remain available until September 30, 2031, for necessary  
8 expenses for the Internal Revenue Service to carry out this  
9 subtitle (and the amendments made by this subtitle),  
10 which shall supplement and not supplant any other appro-  
11 priations that may be available for this purpose.

12 **Subtitle H—Social Safety Net**

13 **SEC. 137001. AMENDMENT OF 1986 CODE.**

14 Except as otherwise expressly provided, whenever in  
15 this subtitle an amendment or repeal is expressed in terms  
16 of an amendment to, or repeal of, a section or other provi-  
17 sion, the reference shall be considered to be made to a  
18 section or other provision of the Internal Revenue Code  
19 of 1986.

20 **PART 1—CHILD TAX CREDIT**

21 **SEC. 137101. MODIFICATIONS APPLICABLE BEGINNING IN**  
22 **2021.**

23 (a) **SAFE HARBOR EXCEPTION FOR FRAUD AND IN-**  
24 **TENTIONAL DISREGARD OF RULES AND REGULATIONS.—**  
25 Section 24(j)(2)(B) is amended—

1           (1) by striking “qualified” each place it appears  
2           in clause (iv)(II) and inserting “qualifying”, and

3           (2) by adding at the end the following new  
4           clause:

5                           “(v) EXCEPTION FOR FRAUD AND IN-  
6                           TENTIONAL DISREGARD OF RULES AND  
7                           REGULATIONS.—

8                                   “(I) IN GENERAL.—For purposes  
9                                   of determining the safe harbor  
10                                  amount under clause (iv) with respect  
11                                  to any taxpayer, an individual shall  
12                                  not be treated as taken into account  
13                                  in determining the annual advance  
14                                  amount of such taxpayer if the Sec-  
15                                  retary determines that such individual  
16                                  was so taken into account due to  
17                                  fraud by the taxpayer or intentional  
18                                  disregard of rules and regulations by  
19                                  the taxpayer.

20                                   “(II) ARRANGEMENTS TO TAKE  
21                                  INDIVIDUAL INTO ACCOUNT MORE  
22                                  THAN ONCE.—For purposes of sub-  
23                                  clause (I), a taxpayer shall not fail to  
24                                  be treated as intentionally dis-  
25                                  regarding rules and regulations with

1           respect to any individual taken into  
2           account in determining the annual ad-  
3           vance amount of such taxpayer if such  
4           taxpayer entered into a plan or other  
5           arrangement with, or expected, an-  
6           other taxpayer to take such individual  
7           into account in determining the credit  
8           allowed under this section for the tax-  
9           able year.”.

10       (b) TREATMENT OF JOINT RETURNS.—Section 24(j)  
11 is amended by adding at the end the following new para-  
12 graph:

13           “(3) JOINT RETURNS.—Except as otherwise  
14           provided by the Secretary, in the case of an advance  
15           payment made under section 7527A with respect to  
16           a joint return, half of such payment shall be treated  
17           as having been made to each individual filing such  
18           return.”.

19       (c) ANNUAL ADVANCE AMOUNT.—Section 7527A(b)  
20 is amended—

21           (1) in paragraph (1)—

22                   (A) in subparagraph (A), by inserting “or  
23                   based on any other information known to the  
24                   Secretary” after “reference taxable year”,

1 (B) in subparagraph (C), by inserting “un-  
2 less determined by the Secretary based on any  
3 information known to the Secretary,” before  
4 “the only children”, and

5 (C) in subparagraph (D), by inserting “un-  
6 less determined by the Secretary based on any  
7 information known to the Secretary,” before  
8 “the ages of”, and

9 (2) in paragraph (3)(A)(ii), by striking “ pro-  
10 vided by the taxpayer” and inserting “provided, or  
11 known,”.

12 (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxable years beginning, and  
14 payments made, after December 31, 2020.

15 **SEC. 137102. EXTENSION AND MODIFICATION OF CHILD TAX**

16 **CREDIT AND ADVANCE PAYMENT FOR 2022.**

17 (a) EXTENSIONS.—

18 (1) EXTENSION OF CHILD TAX CREDIT.—Sec-  
19 tion 24(i) is amended—

20 (A) by striking “January 1, 2022” in the  
21 matter preceding paragraph (1) and inserting  
22 “January 1, 2023”, and

23 (B) by inserting “AND 2022” after “2021”  
24 in the heading thereof.

1           (2) EXTENSION OF PROVISIONS RELATED TO  
2 POSSESSIONS OF THE UNITED STATES.—

3           (A) Section 24(k)(2)(B) is amended—

4                 (i) by striking “December 31, 2021”  
5 in the matter preceding clause (i) and in-  
6 serting “December 31, 2022”, and

7                 (ii) by striking “AFTER 2021” in the  
8 heading thereof and inserting “AFTER  
9 2022”.

10          (B) Section 24(k)(3)(C)(ii) is amended—

11                 (i) in subclause (I), by inserting “or  
12 2022” after “2021”, and

13                 (ii) in subclause (II), by striking “De-  
14 cember 31, 2021” and inserting “Decem-  
15 ber 31, 2022”.

16          (C) The heading of section 24(k)(2)(A) is  
17 amended by inserting “AND 2022” after  
18 “2021”.

19          (3) EXTENSION OF ADVANCE PAYMENT.—Sec-  
20 tion 7527A is amended—

21                 (A) in subsection (b)(1), by striking “50  
22 percent of”,

23                 (B) in clauses (i) and (ii) of subsection  
24 (e)(4)(C), by inserting “or 2022” after “in  
25 2021”, and

1 (C) in subsection (f), by striking “Decem-  
2 ber 31, 2021” and inserting “December 31,  
3 2022”.

4 (b) REPEAL OF SOCIAL SECURITY NUMBER RE-  
5 QUIREMENT.—Section 24(h) is amended by striking para-  
6 graph (7).

7 (c) APPLICATION OF INCOME PHASEOUT ON BASIS  
8 OF INCOME FOR PRECEDING TAXABLE YEAR.—Section  
9 24(i) is amended by adding at the end the following new  
10 paragraph:

11 “(5) APPLICATION OF INCOME PHASEOUT ON  
12 BASIS OF INCOME FOR PRIOR TAXABLE YEAR.—If  
13 the taxpayer’s modified adjusted gross income (as  
14 defined in subsection (b)) for the taxable year for  
15 which the credit allowed under this section is deter-  
16 mined is greater than such taxpayer’s modified ad-  
17 justed gross income (as so defined) for the preceding  
18 taxable year, paragraph (4) and subsection (b)(1)  
19 shall both be applied with respect to such taxpayer’s  
20 modified adjusted gross income (as so defined) for  
21 the preceding taxable year.”.

22 (d) INFLATION ADJUSTMENT.—Section 24(i), as  
23 amended by subsection (c), is amended by adding at the  
24 end the following new paragraph:

25 “(6) INFLATION ADJUSTMENTS.—

1           “(A) IN GENERAL.—In the case of any  
2 taxable year beginning after December 31,  
3 2021, the \$500 amount in subsection (h)(4)(A),  
4 the \$3,000 and \$3,600 amounts in paragraph  
5 (3) and subsection (j)(2)(B)(iv), and the dollar  
6 amounts in paragraph (4)(B), shall each be in-  
7 creased by an amount equal to—

8           “(i) such dollar amount, multiplied by  
9           “(ii) the percentage (if any) by  
10 which—

11                   “(I) the CPI (as defined in sec-  
12 tion 1(f)(4)) for the calendar year  
13 preceding the calendar year in which  
14 such taxable year begins, exceeds

15                   “(II) the CPI (as so defined) for  
16 calendar year 2020.

17           “(B) ROUNDING.—

18           “(i) \$500 AMOUNT.—In the case of  
19 the \$500 amount in subsection (h)(4)(A),  
20 any increase under subparagraph (A)  
21 which is not a multiple of \$10 shall be  
22 rounded to the nearest multiple of \$10.

23           “(ii) \$3,000 AND \$3,600 AMOUNTS.—  
24 In the case of the \$3,000 and \$3,600  
25 amounts in paragraph (3) and subsection

1 (j)(2)(B)(iv), any increase under subpara-  
2 graph (A) which is not a multiple of \$100  
3 shall be rounded to the nearest multiple of  
4 \$100.

5 “(iii) APPLICABLE THRESHOLD  
6 AMOUNTS.—In the case of the dollar  
7 amounts in paragraph (4)(B), any increase  
8 under subparagraph (A) which is not a  
9 multiple of \$5,000 shall be rounded to the  
10 nearest multiple of \$5,000.”.

11 (e) MODIFICATION OF RECAPTURE SAFE HARBOR  
12 FOR 2022.—Section 24(j)(2)(B)(iv), as amended by the  
13 preceding provisions of this Act, is amended to read as  
14 follows:

15 “(iv) SAFE HARBOR AMOUNT.—For  
16 purposes of this subparagraph, the term  
17 ‘safe harbor amount’ means, with respect  
18 to any taxpayer for any taxable year, the  
19 aggregate of \$3,000 (\$3,600 in the case of  
20 a qualifying child who has not attained age  
21 6 as of the close of the calendar year in  
22 which the taxable year of the taxpayer be-  
23 gins) with respect to each qualifying child  
24 who is—

1                   “(I) taken into account in deter-  
2                   mining the annual advance amount  
3                   with respect to such taxpayer under  
4                   section 7527A with respect to months  
5                   beginning in such taxable year, and

6                   “(II) not taken into account in  
7                   determining the credit allowed to such  
8                   taxpayer under this section for such  
9                   taxable year.”.

10           (f) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning, and  
12 payments made, after December 31, 2021.

13 **SEC. 137103. ESTABLISHMENT OF MONTHLY CHILD TAX**  
14                   **CREDIT WITH ADVANCE PAYMENT THROUGH**  
15                   **2025.**

16           (a) IN GENERAL.—Subpart A of part IV of sub-  
17 chapter A of chapter 1 is amended by inserting after sec-  
18 tion 24 the following new sections:

19 **“SEC. 24A. MONTHLY CHILD TAX CREDIT.**

20           “(a) ALLOWANCE OF CREDIT.—There shall be al-  
21 lowed as a credit against the tax imposed by this chapter  
22 for the taxable year the sum of the monthly specified child  
23 allowances determined with respect to the taxpayer under  
24 subsection (b) for each calendar month during such tax-  
25 able year.

1 “(b) MONTHLY SPECIFIED CHILD ALLOWANCE.—

2 “(1) IN GENERAL.—For purposes of this sec-  
3 tion, the term ‘monthly specified child allowance’  
4 means, with respect to any taxpayer for any cal-  
5 endar month, the sum of—

6 “(A) \$300 with respect to each specified  
7 child of such taxpayer who will not, as of the  
8 close of the taxable year which includes such  
9 month, have attained age 6, plus

10 “(B) \$250 with respect to each specified  
11 child of such taxpayer who will, as of the close  
12 of the taxable year which includes such month,  
13 have attained age 6.

14 “(2) LIMITATIONS BASED ON MODIFIED AD-  
15 JUSTED GROSS INCOME.—

16 “(A) INITIAL REDUCTION.—The monthly  
17 specified child allowance otherwise determined  
18 under paragraph (1) with respect to any tax-  
19 payer for any calendar month shall be reduced  
20 (but not below zero) by  $\frac{1}{12}$  of 5 percent of the  
21 excess (if any) of the taxpayer’s modified ad-  
22 justed gross income for the applicable taxable  
23 year over the initial threshold amount in effect  
24 for such applicable taxable year.

1           “(B) LIMITATION ON INITIAL REDUC-  
2           TION.—The amount of the reduction under sub-  
3           paragraph (A) shall not exceed the lesser of—

4                   “(i) the excess (if any) of—

5                           “(I) the monthly specified child  
6                           allowance with respect to the taxpayer  
7                           for the calendar month (determined  
8                           without regard to this paragraph),  
9                           over

10                           “(II) the amount which would be  
11                           determined under subclause (I) if the  
12                           dollar amounts in effect under sub-  
13                           paragraphs (A) and (B) of paragraph  
14                           (1) were each equal to \$166.67, or

15                           “(ii)  $\frac{1}{12}$  of 5 percent of the excess of  
16                           the secondary threshold amount over the  
17                           initial threshold amount.

18           “(C) SECONDARY REDUCTION.—The  
19           monthly specified child allowance otherwise de-  
20           termined under paragraph (1) with respect to  
21           any taxpayer for any calendar month (deter-  
22           mined after the application of subparagraphs  
23           (A) and (B)) shall be reduced (but not below  
24           zero) by  $\frac{1}{12}$  of 5 percent of the excess (if any)  
25           of the taxpayer’s modified adjusted gross in-

1           come for the applicable taxable year over the  
2           secondary threshold amount.

3           “(D) DEFINITIONS RELATED TO LIMITA-  
4           TIONS BASED ON MODIFIED ADJUSTED GROSS  
5           INCOME.—For purposes of this paragraph—

6           “(i) INITIAL THRESHOLD AMOUNT.—  
7           The term ‘initial threshold amount’  
8           means—

9                       “(I) \$150,000, in the case of a  
10                      joint return or surviving spouse (as  
11                      defined in section 2(a)),

12                     “(II)  $\frac{1}{2}$  the dollar amount in ef-  
13                     fect under subclause (I), in the case of  
14                     a married individual filing a separate  
15                     return, and

16                     “(III) \$112,500, in any other  
17                     case.

18           “(iii) SECONDARY THRESHOLD  
19           AMOUNT.—The term ‘secondary threshold  
20           amount’ means—

21                     “(I) \$400,000, in the case of a  
22                     joint return or surviving spouse (as  
23                     defined in section 2(a)),

1                   “(II) \$300,000, in the case of a  
2                   head of household (as defined in sec-  
3                   tion 2(b)), and

4                   “(III) \$200,000, in any other  
5                   case.

6                   “(iv) APPLICABLE TAXABLE YEAR.—  
7                   The term ‘applicable taxable year’ means,  
8                   with respect to any taxpayer, the relevant  
9                   taxable year with respect to which the tax-  
10                  payer has the lowest modified adjusted  
11                  gross income. For purposes of the pre-  
12                  ceding sentence, the term ‘relevant taxable  
13                  year’ means the taxable year for which the  
14                  credit allowed under this section is deter-  
15                  mined and each of the 2 immediately pre-  
16                  ceding taxable years.

17                  “(v) MODIFIED ADJUSTED GROSS IN-  
18                  COME.—The term ‘modified adjusted gross  
19                  income’ means adjusted gross income in-  
20                  creased by any amount excluded from  
21                  gross income under section 911, 931, or  
22                  933.

23                  “(c) SPECIFIED CHILD.—For purposes of this sec-  
24                  tion—

1           “(1) IN GENERAL.—The term ‘specified child’  
2 means, with respect to any taxpayer for any cal-  
3 endar month, an individual—

4           “(A) who has the same principal place of  
5 abode as the taxpayer for more than one-half of  
6 such month,

7           “(B) who is younger than the taxpayer and  
8 will not, as of the close of the calendar year  
9 which includes such month, have attained age  
10 18,

11           “(C) who receives care from the taxpayer  
12 during such month that is not compensated,

13           “(D) who is not the spouse of the taxpayer  
14 at any time during such month,

15           “(E) who is not a taxpayer with respect to  
16 whom any individual is a specified child for  
17 such month, and

18           “(F) who either—

19           “(i) is a citizen, national, or resident  
20 of the United States, or

21           “(ii) if the taxpayer is a citizen or na-  
22 tional of the United States, such individual  
23 is described in section 152(f)(1)(B) with  
24 respect to such taxpayer.

25           “(2) CARE FROM THE TAXPAYER.—

1           “(A) IN GENERAL.—Except as otherwise  
2 provided by the Secretary, whether any indi-  
3 vidual receives care from the taxpayer (within  
4 the meaning of paragraph (1)(C)) shall be de-  
5 termined on the basis of facts and cir-  
6 cumstances with respect to the following fac-  
7 tors:

8           “(i) The supervision provided by the  
9 taxpayer regarding the daily activities and  
10 needs of the individual.

11           “(ii) The maintenance by the taxpayer  
12 of a secure environment at which the indi-  
13 vidual resides.

14           “(iii) The provision or arrangement by  
15 the taxpayer of, and transportation by the  
16 taxpayer to, medical care at regular inter-  
17 vals and as required for the individual.

18           “(iv) The involvement by the taxpayer  
19 in, and financial and other support by the  
20 taxpayer for, educational or similar activi-  
21 ties of the individual.

22           “(v) Any other factor that the Sec-  
23 retary determines to be appropriate to de-  
24 termine whether the individual receives  
25 care from the taxpayer.

1           “(B) DETERMINATION OF WHETHER CARE  
2 IS COMPENSATED.—For purposes of deter-  
3 mining if care is compensated within the mean-  
4 ing of paragraph (1)(C), compensation from the  
5 Federal Government, a State or local govern-  
6 ment, a Tribal government, or any possession of  
7 the United States shall not be taken into ac-  
8 count.

9           “(3) APPLICATION OF TIE-BREAKER RULES.—

10           “(A) IN GENERAL.—Except as provided in  
11 subparagraph (D), if any individual would (but  
12 for this paragraph) be a specified child of 2 or  
13 more taxpayers for any month, such individual  
14 shall be treated as the specified child only of  
15 the taxpayer who is—

16           “(i) the parent of the individual (or, if  
17 such individual would (but for this para-  
18 graph) be a specified child of 2 or more  
19 parents of the individual for such month,  
20 the parent of the individual determined  
21 under subparagraph (B)),

22           “(ii) if the individual is not a specified  
23 child of any parent of the individual (deter-  
24 mined without regard to this paragraph),  
25 the specified relative of the individual with

1 the highest adjusted gross income for the  
2 taxable year which includes such month, or  
3 “(iii) if the individual is neither a  
4 specified child of any parent of the indi-  
5 vidual nor a specified child of any specified  
6 relative of the individual (in both cases de-  
7 termined without regard to this para-  
8 graph), the taxpayer with the highest ad-  
9 justed gross income for the taxable year  
10 which includes such month.

11 “(B) TIE-BREAKER AMONG PARENTS.—If  
12 any individual would (but for this paragraph)  
13 be the specified child of 2 or more parents of  
14 the individual for any month, such child shall  
15 be treated only as the specified child of—

16 “(i) the parent with whom the child  
17 resided for the longest period of time dur-  
18 ing such month, or

19 “(ii) if the child resides with both par-  
20 ents for the same amount of time during  
21 such month, the parent with the highest  
22 adjusted gross income for the taxable year  
23 which includes such month.

1           “(C) SPECIFIED RELATIVE.—For purposes  
2 of this paragraph, the term ‘specified relative’  
3 means an individual who is—

4           “(i) an ancestor of a parent of the  
5 specified child,

6           “(ii) a brother or sister of a parent of  
7 the specified child, or

8           “(iii) a brother, sister, stepbrother, or  
9 stepsister of the specified child.

10          “(D) CERTAIN PARENTS OR SPECIFIED  
11 RELATIVES NOT TAKEN INTO ACCOUNT.—This  
12 paragraph shall be applied without regard to  
13 any parent or specified relative of an individual  
14 for any month if—

15          “(i) such parent or specified relative  
16 elects to have such individual not be treat-  
17 ed as a specified child of such parent or  
18 specified relative for such month,

19          “(ii) in the case of a parent of such  
20 individual, the adjusted gross income of  
21 the taxpayer (with respect to whom such  
22 individual would be treated as a specified  
23 child after application of this subpara-  
24 graph) for the taxable year which includes  
25 such month is higher than the highest ad-

1           justed gross income of any parent of the  
2           individual for any taxable year which in-  
3           cludes such month (determined without re-  
4           gard to any parent with respect to whom  
5           such individual is not a specified child, de-  
6           termined without regard to subparagraphs  
7           (A) and (B) and after application of this  
8           subparagraph), and

9           “ (iii) in the case of a specified relative  
10          of such individual, the adjusted gross in-  
11          come of the taxpayer (with respect to  
12          whom such individual would be treated as  
13          a specified child after application of this  
14          subparagraph) for the taxable year which  
15          includes such month is higher than the  
16          highest adjusted gross income of any par-  
17          ent and any specified relative of the indi-  
18          vidual for any taxable year which includes  
19          such month (determined without regard to  
20          any parent and any specified relative with  
21          respect to whom such individual is not a  
22          specified child, determined without regard  
23          to subparagraphs (A) and (B) and after  
24          application of this subparagraph).

1           “(E) TREATMENT OF JOINT RETURNS.—

2           For purposes of this paragraph, with respect to  
3           any month, 2 individuals filing a joint return  
4           for the taxable year which includes such month  
5           shall be treated as 1 individual.

6           “(F) PARENT.—Except as otherwise pro-  
7           vided by the Secretary, the term ‘parent’ shall  
8           have the same meaning as when used in section  
9           152(c)(4).

10          “(4) SPECIAL RULES WITH RESPECT TO BIRTH  
11          AND DEATH.—

12           “(A) BIRTH.—

13           “(i) IN GENERAL.—In the case of the  
14           birth of an individual during any calendar  
15           year, such individual shall be treated as a  
16           specified child of the relevant taxpayer for  
17           each calendar month in such calendar year  
18           which precedes the calendar month re-  
19           ferred to in clause (ii).

20           “(ii) RELEVANT TAXPAYER.—For  
21           purposes of clause (i), the term ‘relevant  
22           taxpayer’ means the taxpayer with respect  
23           to whom the individual referred to in  
24           clause (i) is a specified child for the first  
25           month for which such individual is a speci-

1           fied child with respect to any taxpayer (de-  
2           termined without regard to this subpara-  
3           graph).

4           “(B) DEATH.—

5                   “(i) IN GENERAL.—In the case of the  
6           death of an individual during any calendar  
7           year, such individual shall be treated as a  
8           specified child of the relevant taxpayer for  
9           each calendar month in such calendar year  
10          which follows the calendar month referred  
11          to in clause (ii).

12                   “(ii) RELEVANT TAXPAYER.—For  
13          purposes of clause (i), the term ‘relevant  
14          taxpayer’ means the taxpayer with respect  
15          to whom the individual referred to in  
16          clause (i) is a specified child for the last  
17          month for which such individual is alive.

18          “(5) TREATMENT OF TEMPORARY ABSENCES.—

19          For purposes of this subsection—

20                   “(A) IN GENERAL.—In the case of any in-  
21          dividual’s temporary absence from such individ-  
22          ual’s principal place of abode, each day com-  
23          posing the temporary absence shall—

24                   “(i) be treated as a day at such indi-  
25          vidual’s principal place of abode, and

1                   “(ii) not be treated as a day at any  
2                   other location.

3                   “(B) TEMPORARY ABSENCE.—For pur-  
4                   poses of subparagraph (A), an absence shall be  
5                   treated as temporary if—

6                   “(i) the individual would have resided  
7                   at the place of abode but for the absence,  
8                   and

9                   “(ii) under the facts and cir-  
10                  cumstances, it is reasonable to assume that  
11                  the individual will return to reside at the  
12                  place of abode.

13                  “(6) SPECIAL RULE FOR DIVORCED PARENTS,  
14                  ETC.—Rules similar to the rules section 152(e) shall  
15                  apply for purposes of this subsection.

16                  “(7) ELIGIBILITY DETERMINED ON BASIS OF  
17                  PRESUMPTIVE ELIGIBILITY.—

18                  “(A) IN GENERAL.—If a period of pre-  
19                  sumptive eligibility is established under section  
20                  7527B(c) for any individual with respect to any  
21                  taxpayer—

22                  “(i) such individual shall be treated as  
23                  the specified child of such taxpayer for any  
24                  month in such period of presumptive eligi-  
25                  bility, and

1           “(ii) such individual shall not be  
2           treated as the specified child of any other  
3           taxpayer with respect to whom a period of  
4           presumptive eligibility has not been estab-  
5           lished for any such month.

6           “(B) ABILITY OF CREDIT CLAIMANTS TO  
7           ESTABLISH PRESUMPTIVE ELIGIBILITY.—Noth-  
8           ing in section 7527B(c) shall be interpreted to  
9           preclude a taxpayer who elects not to receive  
10          monthly advance child payments under section  
11          7527B from establishing a period of presump-  
12          tive eligibility (including any such period de-  
13          scribed in section 7527B(c)(2)(D)) with respect  
14          to any specified child for purposes of this sec-  
15          tion.

16          “(d) PORTION OF CREDIT REFUNDABLE.—If the tax-  
17          payer (in the case of a joint return, either spouse) has  
18          a principal place of abode (determined as provided in sec-  
19          tion 32) in the United States or Puerto Rico for more  
20          than one-half of any calendar month during the taxable  
21          year, so much of the credit otherwise allowed under sub-  
22          section (a) as is attributable to monthly specified child al-  
23          lowances with respect to any such calendar month shall  
24          be allowed under subpart C (and not allowed under this  
25          subpart).

1           “(e) IDENTIFICATION REQUIREMENTS.—Rules simi-  
2 lar to the rules of section 24(e) shall apply for purposes  
3 of this section.

4           “(f) RESTRICTIONS ON TAXPAYERS WHO IMPROP-  
5 ERLY CLAIMED CREDIT OR IMPROPERLY RECEIVED  
6 MONTHLY ADVANCE CHILD PAYMENT.—

7                   “(1) TAXPAYERS MAKING PRIOR FRAUDULENT  
8 OR RECKLESS CLAIMS.—

9                           “(A) IN GENERAL.—No credit shall be al-  
10 lowed under this section for any taxable year  
11 (and no payment shall be made under section  
12 7527B for any month) in the disallowance pe-  
13 riod.

14                           “(B) DISALLOWANCE PERIOD.—For pur-  
15 poses of subparagraph (A), the disallowance pe-  
16 riod is—

17                                   “(i) the period of 10 taxable years  
18 after the most recent taxable year for  
19 which there was a final determination that  
20 the taxpayer’s claim of credit under this  
21 section or section 24 (or payment under  
22 section 7527A or 7527B) was due to  
23 fraud,

24                                   “(ii) the period of 2 taxable years  
25 after the most recent taxable year for

1           which there was a final determination that  
2           the taxpayer's claim of credit under this  
3           section or section 24 (or payment under  
4           section 7527A or 7527B) was due to reck-  
5           less or intentional disregard of rules and  
6           regulations (but not due to fraud), and

7           “(iii) in addition to any period deter-  
8           mined under clause (i) or (ii) (as the case  
9           may be), the period beginning on the date  
10          of the final determination described in  
11          such clause and ending with the beginning  
12          of the period described in such clause.

13          “(2) TAXPAYERS MAKING IMPROPER PRIOR  
14          CLAIMS.—In the case of a taxpayer who is denied  
15          credit under this section or section 24 for any tax-  
16          able year as a result of the deficiency procedures  
17          under subchapter B of chapter 63, no credit shall be  
18          allowed under this section for any subsequent tax-  
19          able year (and no payment shall be made under sec-  
20          tion 7527B for any subsequent month) unless the  
21          taxpayer provides such information as the Secretary  
22          may require to demonstrate eligibility for such cred-  
23          it.

24          “(3) COORDINATION WITH POSSESSIONS OF  
25          THE UNITED STATES.—In carrying out this section,

1 the Secretary shall coordinate with each possession  
2 of the United States to prevent the avoidance of the  
3 application of this subsection.

4 “(g) RECONCILIATION OF CREDIT AND MONTHLY  
5 ADVANCE CHILD PAYMENTS.—

6 “(1) IN GENERAL.—The amount otherwise de-  
7 termined under subsection (a) with respect to any  
8 taxpayer for any taxable year shall be reduced (but  
9 not below zero) by the aggregate amount of pay-  
10 ments made under section 7527B to such taxpayer  
11 for one or more calendar months in such taxable  
12 year. Any failure to so reduce the credit shall be  
13 treated as arising out of a mathematical or clerical  
14 error and assessed according to section 6213(b)(1).

15 “(2) RECAPTURE OF EXCESS ADVANCE PAY-  
16 MENTS IN CERTAIN CIRCUMSTANCES.—In the case  
17 of a taxpayer described in paragraph (3) for any  
18 taxable year, the tax imposed by this chapter for  
19 such taxable year shall be increased by the excess (if  
20 any) of—

21 “(A) the aggregate amount of payments  
22 made to the taxpayer under section 7527B for  
23 one or more calendar months in such taxable  
24 year, over

1           “(B) the amount determined under sub-  
2           section (a) with respect to the taxpayer for such  
3           taxable year (without regard to paragraph (1)  
4           of this subsection).

5           “(3) TAXPAYERS SUBJECT TO RECAPTURE.—

6           “(A) FRAUD OR RECKLESS OR INTEN-  
7           TIONAL DISREGARD OF RULES AND REGULA-  
8           TIONS.—A taxpayer is described in this para-  
9           graph with respect to any taxable year if the  
10          Secretary determines that the amount described  
11          in paragraph (2)(A) with respect to the tax-  
12          payer for such taxable year was determined on  
13          the basis of fraud or a reckless or intentional  
14          disregard of rules and regulations.

15          “(B) UNDERSTATEMENT OF INCOME;  
16          CHANGES IN FILING STATUS.—If the amount  
17          described in paragraph (2)(A) with respect to  
18          the taxpayer for the taxable year was deter-  
19          mined on the basis of an amount of the tax-  
20          payer’s modified adjusted gross income which  
21          was less than the taxpayer’s modified adjusted  
22          gross income for the applicable taxable year (as  
23          defined in subsection (b))—

24                  “(i) such taxpayer shall be treated as  
25                  described in this paragraph, and

1           “(ii) the increase determined under  
2           paragraph (2) by reason of this subpara-  
3           graph shall not exceed the excess of—

4                   “(I) the amount described in  
5                   paragraph (2)(A), over

6                   “(II) the amount which would be  
7                   so described if the payments described  
8                   therein had been determined on the  
9                   basis of the taxpayer’s modified ad-  
10                  justed gross income for the applicable  
11                  taxable year (as defined in subsection  
12                  (b)).

13           A rule similar to the rule of the preceding  
14           sentence shall apply if the amount de-  
15           scribed in paragraph (2)(A) with respect to  
16           the taxpayer for the taxable year was de-  
17           termined on the basis of a filing status of  
18           the taxpayer which differs from the tax-  
19           payer’s filing status for the applicable tax-  
20           able year (as so defined).

21           “(C) PAYMENTS MADE OUTSIDE OF PE-  
22           RIOD OF PRESUMPTIVE ELIGIBILITY.—If any  
23           payment described in paragraph (2)(A) with re-  
24           spect to the taxpayer for the taxable year was  
25           made with respect to a child for a month which

1 was not part of a period of presumptive eligi-  
2 bility established under section 7527B(c) for  
3 such child with respect to such taxpayer—

4 “(i) such taxpayer shall be treated as  
5 described in this paragraph, and

6 “(ii) the increase determined under  
7 paragraph (2) by reason of this subpara-  
8 graph shall not exceed the portion of such  
9 payment so made.

10 “(D) CERTAIN PAYMENTS MADE AFTER  
11 NOTICE FROM SECRETARY.—If the Secretary  
12 notifies a taxpayer under section 7527B(j)(2)  
13 that such taxpayer is subject to recapture with  
14 respect to any payments—

15 “(i) such taxpayer shall be treated as  
16 described in this paragraph, and

17 “(ii) the increase determined under  
18 paragraph (2) by reason of this subpara-  
19 graph shall not exceed the aggregate  
20 amount of such payments.

21 “(E) TAXPAYERS MOVING TO ANOTHER  
22 JURISDICTION.—To minimize the amount of ad-  
23 vance payments made under section 7527B to  
24 ineligible individuals, the Secretary shall issue  
25 regulations or other guidance for purposes of

1           this paragraph which apply with respect to tax-  
2           payers who are described in section  
3           7527B(b)(4) with respect to the reference  
4           month but are not so described with respect to  
5           one or more months during the taxable year for  
6           which advance payments under section 7527B  
7           are made.

8           “(F) OTHER CIRCUMSTANCES TO PREVENT  
9           ABUSE.—A taxpayer is described in this para-  
10          graph with respect to any taxable year pursuant  
11          to regulations or other guidance of the Sec-  
12          retary describing other recapture circumstances  
13          to facilitate the administration and enforcement  
14          by the Secretary of section 7527B to minimize  
15          the amount of advance payments made under  
16          section 7527B to ineligible individuals and to  
17          prevent abuse.

18          “(4) JOINT RETURNS.—Except as otherwise  
19          provided by the Secretary, in the case of an advance  
20          payment made under section 7527B with respect to  
21          a joint return, half of such payment shall be treated  
22          as having been made to each individual filing such  
23          return.

24          “(h) INFLATION ADJUSTMENTS.—

1           “(1) MONTHLY SPECIFIED CHILD ALLOW-  
2 ANCE.—

3           “(A) IN GENERAL.—In the case of any  
4 month beginning after December 31, 2022,  
5 each of the dollar amounts in subsection (b)(1)  
6 shall be increased by an amount equal to—

7                   “(i) such dollar amount, multiplied by

8                   “(ii) the percentage (if any) by  
9 which—

10                           “(I) the CPI (as defined in sec-  
11 tion 1(f)(4)) for the calendar year  
12 preceding the calendar year in which  
13 such month begins, exceeds

14                           “(II) the CPI (as so defined) for  
15 calendar year 2020.

16           “(B) ROUNDING.—Any increase under  
17 subparagraph (A) which is not a multiple of  
18 \$10 shall be rounded to the nearest multiple of  
19 \$10.

20           “(2) INITIAL THRESHOLD AMOUNT.—

21           “(A) IN GENERAL.—In the case of any  
22 taxable year beginning after December 31,  
23 2022, the dollar amounts in subclauses (I) and  
24 (III) of subsection (b)(2)(D)(i) shall each be in-  
25 creased by an amount equal to—

1 “(i) such dollar amount, multiplied by

2 “(ii) the percentage (if any) by

3 which—

4 “(I) the CPI (as defined in sec-

5 tion 1(f)(4)) for the calendar year

6 preceding the calendar year in which

7 such taxable year begins, exceeds

8 “(II) the CPI (as so defined) for

9 calendar year 2020.

10 “(B) ROUNDING.—Any increase under

11 subparagraph (A) which is not a multiple of

12 \$5,000 shall be rounded to the nearest multiple

13 of \$5,000.

14 “(i) APPLICATION OF CREDIT IN POSSESSIONS.—

15 “(1) MIRROR CODE POSSESSIONS.—

16 “(A) IN GENERAL.—The Secretary shall

17 pay to each possession of the United States

18 with a mirror code tax system amounts equal to

19 the loss (if any) to that possession by reason of

20 the application of this section (determined with-

21 out regard to this subsection) with respect to

22 taxable years beginning after 2022 and before

23 2026. Such amounts shall be determined by the

24 Secretary based on information provided by the

25 government of the respective possession.

1           “(B) COORDINATION WITH CREDIT AL-  
2           LOWED AGAINST UNITED STATES INCOME  
3           TAXES.—No credit shall be allowed under this  
4           section for any taxable year to any individual to  
5           whom a credit is allowable against taxes im-  
6           posed by a possession of the United States with  
7           a mirror code tax system by reason of the appli-  
8           cation of this section in such possession for  
9           such taxable year.

10           “(C) MIRROR CODE TAX SYSTEM.—For  
11           purposes of this paragraph, the term ‘mirror  
12           code tax system’ means, with respect to any  
13           possession of the United States, the income tax  
14           system of such possession if the income tax li-  
15           ability of the residents of such possession under  
16           such system is determined by reference to the  
17           income tax laws of the United States as if such  
18           possession were the United States.

19           “(2) CROSS REFERENCES RELATED TO APPLI-  
20           CATION OF CREDIT TO RESIDENTS OF PUERTO  
21           RICO.—

22           “(A) For application of refundable credit  
23           to residents of Puerto Rico, see subsection (d).

1           “(B) For application of advance payment  
2 to residents of Puerto Rico, see section  
3 7527B(b)(4).

4           “(3) AMERICAN SAMOA.—

5           “(A) IN GENERAL.—The Secretary shall  
6 pay to American Samoa amounts estimated by  
7 the Secretary as being equal to the aggregate  
8 benefits that would have been provided to resi-  
9 dents of American Samoa by reason of the ap-  
10 plication of this section for taxable years begin-  
11 ning after 2022 and before 2026 if the provi-  
12 sions of this section had been in effect in Amer-  
13 ican Samoa (applied as if American Samoa  
14 were the United States and without regard to  
15 the application of this section to residents of  
16 Puerto Rico under subsection (d)).

17           “(B) DISTRIBUTION REQUIREMENT.—Sub-  
18 paragraph (A) shall not apply unless American  
19 Samoa has a plan, which has been approved by  
20 the Secretary, under which American Samoa  
21 will promptly distribute such payments to its  
22 residents.

23           “(C) COORDINATION WITH CREDIT AL-  
24 LOWED AGAINST UNITED STATES INCOME  
25 TAXES.—

1                   “(i) IN GENERAL.—In the case of a  
2                   taxable year with respect to which a plan  
3                   is approved under subparagraph (B), this  
4                   section (other than this subsection) shall  
5                   not apply to any individual eligible for a  
6                   distribution under such plan.

7                   “(ii) APPLICATION OF SECTION IN  
8                   EVENT OF ABSENCE OF APPROVED  
9                   PLAN.—In the case of a taxable year with  
10                  respect to which a plan is not approved  
11                  under subparagraph (B), subsection (d)  
12                  shall be applied by substituting ‘, Puerto  
13                  Rico, or American Samoa’ for ‘or Puerto  
14                  Rico’.

15                  “(4) TREATMENT OF PAYMENTS.—For pur-  
16                  poses of section 1324 of title 31, United States  
17                  Code, the payments under this subsection shall be  
18                  treated in the same manner as a refund due from  
19                  a credit provision referred to in subsection (b)(2) of  
20                  such section.

21                  “(j) REGULATIONS.—The Secretary shall issue such  
22                  regulations or other guidance as the Secretary determines  
23                  necessary or appropriate to carry out the purposes of this  
24                  section, including regulations or other guidance—

1           “(1) for determining whether an individual re-  
2           ceives care from a taxpayer for purposes of sub-  
3           section (c)(1), and

4           “(2) to coordinate or modify the application of  
5           this section and section 24, 7527A, and 7527B in  
6           the case of any taxpayer—

7           “(A) whose taxable year is other than a  
8           calendar year,

9           “(B) whose filing status for a taxable year  
10          is different from the status used for deter-  
11          mining one or more monthly payments under  
12          section 7527B during such taxable year, or

13          “(C) whose principal place of abode for  
14          any month is different from the principal place  
15          of abode used for determining the monthly pay-  
16          ment under section 7527B for such month.

17          “(k) TERMINATION.—This section shall not apply to  
18          taxable years beginning after December 31, 2025.

19          **“SEC. 24B. CREDIT FOR CERTAIN OTHER DEPENDENTS.**

20          “(a) IN GENERAL.—There shall be allowed as a cred-  
21          it against the tax imposed by this chapter for the taxable  
22          year an amount equal to \$500 with respect to each speci-  
23          fied dependent of such taxpayer for such taxable year.

24          “(b) LIMITATION BASED ON MODIFIED ADJUSTED  
25          GROSS INCOME.—

1           “(1) IN GENERAL.—The amount of the credit  
2           allowable under subsection (a) shall be reduced (but  
3           not below zero) by \$50 for each \$1,000 (or fraction  
4           thereof) by which the taxpayer’s modified adjusted  
5           gross income exceeds the threshold amount.

6           “(2) THRESHOLD AMOUNT.—For purposes of  
7           this subsection, the term ‘threshold amount’  
8           means—

9                   “(A) \$400,000, in the case of a joint re-  
10                  turn or surviving spouse (as defined in section  
11                  2(a)),

12                   “(B) \$300,000, in the case of a head of  
13                  household (as defined in section 2(b)), and

14                   “(C) \$200,000, in any other case.

15           “(3) MODIFIED ADJUSTED GROSS INCOME.—  
16           For purposes of this subsection, the term ‘modified  
17           adjusted gross income’ means adjusted gross income  
18           increased by any amount excluded from gross in-  
19           come under section 911, 931, or 933.

20           “(c) SPECIFIED DEPENDENT.—For purposes of this  
21           section, the term ‘specified dependent’ means, with respect  
22           to any taxpayer for any taxable year, any dependent of  
23           such taxpayer for such taxable year unless such depend-  
24           ent—

1           “(1) is a specified child of the taxpayer, or any  
2           other taxpayer, for any month during such taxable  
3           year, or

4           “(2) would not be a dependent if subparagraph  
5           (A) of section 152(b)(3) were applied without regard  
6           to all that follows ‘resident of the United States’.

7           “(d) IDENTIFICATION REQUIREMENTS.—Rules simi-  
8           lar to the rules of section 24(e) shall apply for purposes  
9           of this section.

10          “(e) TAXABLE YEAR MUST BE FULL TAXABLE  
11          YEAR.—Except in the case of a taxable year closed by rea-  
12          son of the death of the taxpayer, no credit shall be allow-  
13          able under this section in the case of a taxable year cov-  
14          ering a period of less than 12 months.

15          “(f) INFLATION ADJUSTMENT.—

16                 “(1) IN GENERAL.—In the case of any taxable  
17                 year beginning after December 31, 2022, the \$500  
18                 amount in subsection (a) shall be increased by an  
19                 amount equal to—

20                         “(A) such dollar amount, multiplied by

21                         “(B) the percentage (if any) by which—

22                                 “(i) the CPI (as defined in section  
23                                 1(f)(4)) for the calendar year preceding  
24                                 the calendar year in which such taxable  
25                                 year begins, exceeds

1 “(ii) the CPI (as so defined) for cal-  
2 endar year 2020.

3 “(2) ROUNDING.—If the increase determined  
4 under paragraph (1) is not a multiple of \$10, such  
5 increase shall be rounded to the nearest multiple of  
6 \$10.

7 “(g) REGULATIONS.—The Secretary shall issue such  
8 regulations or other guidance as the Secretary determines  
9 necessary or appropriate to carry out the purposes of this  
10 section.

11 “(h) TERMINATION.—This section shall not apply to  
12 taxable years beginning after December 31, 2025.”.

13 (b) MONTHLY PAYMENT OF CHILD TAX CREDIT.—  
14 Chapter 77 is amended by inserting after section 7527A  
15 the following new section:

16 **“SEC. 7527B. MONTHLY PAYMENTS OF CHILD TAX CREDIT.**

17 “(a) IN GENERAL.—The Secretary shall establish a  
18 program for making payments to taxpayers with respect  
19 to each calendar month equal to the monthly advance child  
20 payment determined with respect to such taxpayer for  
21 such month.

22 “(b) MONTHLY ADVANCE CHILD PAYMENT.—For  
23 purposes of this section and except as otherwise provided  
24 in this section, the term ‘monthly advance child payment’  
25 means, with respect to any taxpayer for any calendar

1 month, the amount (if any) which is estimated by the Sec-  
2 retary as being equal to the monthly specified child allow-  
3 ance which would be determined under section 24A(b)  
4 with respect to such taxpayer for such calendar month if—

5 “(1) unless determined by the Secretary based  
6 on any information known to the Secretary, the only  
7 specified children of such taxpayer for such calendar  
8 month are the specified children of such taxpayer for  
9 the reference month,

10 “(2) unless determined by the Secretary based  
11 on any information known to the Secretary, the ages  
12 of such children (and the status of such children as  
13 specified children) are determined for such calendar  
14 month by taking into account the passage of time  
15 since such reference month,

16 “(3) the limitations of section 24A(b)(2) were  
17 applied with respect to the reference taxable year  
18 rather than with respect to the applicable taxable  
19 year, and

20 “(4) unless determined by the Secretary based  
21 on any information known to the Secretary, no  
22 monthly specified child allowance were determined  
23 with respect to such taxpayer for such calendar  
24 month unless the taxpayer (in the case of a joint re-  
25 turn, either spouse) has a principal place of abode

1 (determined as provided in section 32) in the United  
2 States or Puerto Rico for more than one-half of the  
3 reference month.

4 “(c) PRESUMPTIVE ELIGIBILITY.—

5 “(1) IN GENERAL.—An individual shall be  
6 treated as a specified child of a taxpayer for pur-  
7 poses of determining any monthly advance child pay-  
8 ment under this section only if such month is part  
9 of the period of presumptive eligibility determined by  
10 the Secretary under this subsection with respect to  
11 such specified child and such taxpayer (determined  
12 by treating the month described in subclause (I) of  
13 paragraph (2)(A)(ii) as being the first month begin-  
14 ning after the determination described in such sub-  
15 clause).

16 “(2) PERIOD OF PRESUMPTIVE ELIGIBILITY.—  
17 For purposes of this section—

18 “(A) IN GENERAL.—Except as otherwise  
19 provided by the Secretary, the term ‘period of  
20 presumptive eligibility’ means the period—

21 “(i) beginning with the month for  
22 which presumptive eligibility is established,  
23 and

24 “(ii) ending with the earliest of—

1           “(I) the beginning of the month  
2           described in clause (i) if the Secretary  
3           determines that the taxpayer com-  
4           mitted fraud or intentionally dis-  
5           regarded rules or regulations in estab-  
6           lishing or maintaining presumptive  
7           eligibility,

8           “(II) in the case of any notifica-  
9           tion from the Secretary that the pe-  
10          riod of presumptive eligibility has  
11          been terminated or suspended by rea-  
12          son of any question regarding eligi-  
13          bility of the taxpayer for monthly ad-  
14          vance child payments with respect to  
15          such child, the month specified in  
16          such notice as the month on which  
17          such termination or suspension be-  
18          gins, and

19          “(III) the month following any  
20          failure of the taxpayer to make the re-  
21          quired annual renewal of presumptive  
22          eligibility by such date as the Sec-  
23          retary may provide.

24                 “(B) ESTABLISHING PRESUMPTIVE ELIGI-  
25                 BILITY.—A taxpayer shall establish presumptive

1 eligibility with respect to any specified child for  
2 any month at such time and in such manner as  
3 the Secretary may provide. Except as otherwise  
4 provided by the Secretary, in order to establish  
5 a period of presumptive eligibility the taxpayer  
6 must express a reasonable expectation and in-  
7 tent that the taxpayer will continue to be eligi-  
8 ble with respect to such specified child for at  
9 least the two months following the month for  
10 which presumptive eligibility is to be estab-  
11 lished.

12 “(C) METHOD OF ESTABLISHING PRE-  
13 SUMPTIVE ELIGIBILITY.—The Secretary shall  
14 ensure information to establish presumptive eli-  
15 gibility under this paragraph may be provided  
16 on the return of tax for the taxable year ending  
17 before the calendar year which includes the  
18 month for which such eligibility is to be estab-  
19 lished, through the on-line portal described in  
20 subsection (c), or in such other manner as the  
21 Secretary may provide.

22 “(D) INCLUSION OF AUTOMATIC GRACE  
23 PERIODS AND PERIODS OF HARDSHIP.—The pe-  
24 riod of presumptive eligibility shall include any

1 period to which paragraph (1) or (2) of sub-  
2 section (g) applies.

3 “(E) AUTOMATIC ELIGIBILITY FOR BIRTH  
4 OF CHILD.—The Secretary shall issue regula-  
5 tions or other guidance to establish procedures  
6 pursuant to which, to the maximum extent ad-  
7 ministratively practicable—

8 “(i) a parent of a child born during a  
9 calendar month shall be treated as auto-  
10 matically establishing presumptive eligi-  
11 bility with respect to such child,

12 “(ii) the period of such automatic pre-  
13 sumptive eligibility is determined, and

14 “(iii) the first monthly advance child  
15 payment with respect to such child is ad-  
16 justed to properly take into account each  
17 month in the taxable year preceding such  
18 birth.

19 “(F) PRESUMPTIVE ELIGIBILITY BASED  
20 ON CERTAIN GOVERNMENT PROGRAMS.—The  
21 Secretary shall issue regulations or other guid-  
22 ance to establish procedures under which—

23 “(i) based on information provided to  
24 the Secretary by one or more government  
25 entities, a parent or specified relative of a

1 child is treated as automatically estab-  
2 lishing presumptive eligibility with respect  
3 to such child, and

4 “(ii) the period for which such auto-  
5 matic presumptive eligibility is determined  
6 (including any additional circumstances  
7 under which such period will terminate).

8 “(G) COORDINATION WITH PRESUMP-  
9 TION.—For purposes of determining the status  
10 of any individual as a specified child for pur-  
11 poses of determining presumptive eligibility  
12 with respect to any period, section 24A(c) shall  
13 be applied without regard to paragraph (7)  
14 thereof.

15 “(3) NOTICE OF TERMINATION OF PRESUMP-  
16 TIVE ELIGIBILITY BY REASON OF FAILURE TO MAKE  
17 ANNUAL RENEWAL.—If a taxpayer’s period of pre-  
18 sumptive eligibility with respect to any specified  
19 child terminates by reason of paragraph  
20 (2)(A)(ii)(IV), the Secretary shall provide the tax-  
21 payer a written notice of such termination.

22 “(d) DETERMINATION OF REFERENCE MONTH AND  
23 REFERENCE TAXABLE YEAR.—For purposes of this sec-  
24 tion—

1           “(1) REFERENCE MONTH.—The term ‘reference  
2 month’ means, with respect to any taxpayer for any  
3 calendar month, the most recent of—

4           “(A) in the case of a taxpayer who filed a  
5 return of tax for the last taxable year ending  
6 before such calendar month, the last month of  
7 such taxable year,

8           “(B) in the case of a taxpayer who filed a  
9 return of tax for the taxable year preceding the  
10 taxable year described in subparagraph (A), the  
11 last month of such preceding taxable year, and

12           “(C) in the case of a taxpayer who pro-  
13 vides, through a specified alternative mecha-  
14 nism, information which is sufficient to esti-  
15 mate the taxpayer’s monthly advance child pay-  
16 ment for such month, such month.

17           “(2) REFERENCE TAXABLE YEAR.—The term  
18 ‘reference taxable year’ means, with respect to any  
19 taxpayer for any calendar month, the most recent  
20 of—

21           “(A) the taxable year described in subpara-  
22 graph (A) or (B) of paragraph (1), or

23           “(B) in the case of a taxpayer who pro-  
24 vides, through a specified alternative mecha-  
25 nism, information which is sufficient to esti-

1           mate the taxpayer's modified adjusted gross in-  
2           come for the taxable year which includes such  
3           month, such taxable year.

4           “(3) AVAILABILITY OF INFORMATION.—Any  
5           month or year referred to in subparagraphs (A),  
6           (B), or (C) of paragraph (1) or subparagraph (A) or  
7           (B) of paragraph (2) shall not be taken into account  
8           in determining the reference month or reference tax-  
9           able year with respect to any calendar month unless  
10          all relevant information with respect to such month  
11          or year is available to the Secretary and the Sec-  
12          retary has adequate time to make estimates under  
13          this section on the basis of such information before  
14          the beginning of such calendar month.

15          “(4) TREATMENT OF INSUFFICIENT INFORMA-  
16          TION.—Except as otherwise provided by the Sec-  
17          retary—

18                 “(A) if a taxpayer is not described in sub-  
19                 paragraph (A), (B), or (C) of paragraph (1)  
20                 with respect to any calendar month, the month-  
21                 ly advance child payment with respect to such  
22                 taxpayer for such calendar month shall be  
23                 treated as zero unless the Secretary determines  
24                 that the Secretary can make the estimate de-  
25                 scribed in subsection (b) on the basis of infor-

1           mation known to the Secretary which the Sec-  
2           retary determines is reasonably reliable, and

3           “(B) if the taxpayer is not described in  
4           paragraph (1)(C) and the information on the  
5           return of tax referred to in subparagraph (A)  
6           or (B) of paragraph (1) does not establish the  
7           status of the taxpayer (in the case of a joint re-  
8           turn, either spouse) as having a principal place  
9           of abode (determined as provided in section 32)  
10          in the United States or Puerto Rico for more  
11          than one-half of the reference month, the Sec-  
12          retary shall determine such status based on in-  
13          formation known to the Secretary.

14          “(5) TRANSITION RULE.—In any case with re-  
15          spect to which section 24A was not in effect for the  
16          taxable year described in subparagraph (A), (B), or  
17          (C) of paragraph (1) (whichever is applicable), sub-  
18          section (b)(1) shall be applied by substituting ‘the  
19          qualifying children of such taxpayer for the taxable  
20          year which includes the reference month’ for ‘the  
21          specified children of such taxpayer for the reference  
22          month’.

23          “(e) ON-LINE INFORMATION PORTAL; SPECIFIED AL-  
24          TERNATIVE MECHANISMS.—

1           “(1) ON-LINE INFORMATION PORTAL.—The  
2           Secretary shall establish an on-line portal which al-  
3           lows taxpayers to—

4                   “(A) subject to such restrictions as the  
5           Secretary may provide, elect to begin or cease  
6           receiving payments under this section, and

7                   “(B) provide information to the Secretary  
8           which is relevant in determining the monthly  
9           advance child payment and the taxpayer’s eligi-  
10          bility for such payment, including information  
11          regarding—

12                   “(i) the number of the taxpayer’s  
13          specified children, including by reason of  
14          the birth of a child,

15                   “(ii) the taxpayer’s marital status,

16                   “(iii) the taxpayer’s modified adjusted  
17          gross income,

18                   “(iv) the taxpayer’s principal place of  
19          abode, and

20                   “(v) any other factor which the Sec-  
21          retary may provide.

22          “(2) SPECIFIED ALTERNATIVE MECHANISM.—  
23          For purposes of this section, the term ‘specified al-  
24          ternative mechanism’ means the on-line portal estab-  
25          lished under paragraph (1), the on-line portal estab-

1 lished under section 7527A, and any other mecha-  
2 nism or method established by the Secretary to allow  
3 taxpayer's to provide the information described in  
4 paragraph (1) (including in connection with the fil-  
5 ing of any return of tax).

6 “(f) SPECIFIED CHILD OF MORE THAN 1 TAX-  
7 PAYER.—

8 “(1) IN GENERAL.—In the event that (without  
9 regard to this paragraph and determined without re-  
10 gard to any election under subsection (e)(1)) any  
11 specified child would be taken into account in deter-  
12 mining the monthly advance child payment of more  
13 than one taxpayer for the same calendar month—

14 “(A) except as provided in subparagraph  
15 (B), such child shall be so taken into account  
16 only with respect to the taxpayer with the most  
17 recent reference month, and

18 “(B) if any such taxpayer is described in  
19 subsection (d)(1)(C) (or more than 1 taxpayer  
20 is described in subparagraph (A) of this para-  
21 graph), the Secretary shall establish procedures  
22 under which the Secretary expeditiously adju-  
23 dicates the taxpayer's competing claims of pre-  
24 sumptive eligibility with respect to the same  
25 child.

1           “(2) PROVISIONS RELATED TO ADJUDICA-  
2           TION.—

3           “(A) EXPEDITED PROCESS; APPEALS.—  
4           The procedures established under paragraph  
5           (1)(B) shall include—

6                   “(i) an expedited process for tax-  
7                   payers who meet such requirements as the  
8                   Secretary may establish for such expedited  
9                   process, and

10                   “(ii) procedures for adjudicating an  
11                   appeal of an adverse decision.

12           “(B) INFORMATION RECEIPT AND COORDI-  
13           NATION.—The Secretary may enter into agree-  
14           ments to receive information from, and other-  
15           wise coordinate with—

16                   “(i) Federal agencies (including the  
17                   Social Security Administration and the De-  
18                   partment of Agriculture),

19                   “(ii) any State, local government,  
20                   Tribal government, or possession of the  
21                   United States, and

22                   “(iii) any other individual or entity  
23                   that the Secretary determines to be appro-  
24                   priate for purposes of adjudicating a com-  
25                   peting claim described in paragraph (1).

1           “(C) ADJUDICATION NOT TREATED AS AS-  
2           SESSMENT.—An adjudication under the proce-  
3           dures established under paragraph (1)(B) (in-  
4           cluding the adjudication of any appeal) shall  
5           not be treated as an assessment described in  
6           section 6201.

7           “(D) ADJUDICATION NOT TREATED AS IN-  
8           SPECTION OF TAXPAYER’S BOOKS OF AC-  
9           COUNT.—The inspection of a taxpayer’s books  
10          of account in connection with any adjudication  
11          under the procedures established under para-  
12          graph (1)(B) (including the adjudication of any  
13          appeal) shall not be treated as an examination  
14          or inspection of a taxpayer’s books of account  
15          for purposes of section 7605(b).

16          “(3) RETROACTIVE PAYMENTS.—If, pursuant to  
17          the procedures established under paragraph (1)(B),  
18          the Secretary determines that a child is a specified  
19          child of a taxpayer and the Secretary did not make  
20          payments to such taxpayer with respect to such child  
21          for any portion of the period during which the deter-  
22          mination was made, the Secretary may make a one-  
23          time payment to the taxpayer with respect to which  
24          such child is the specified child in an amount equal  
25          to the aggregate amount by which the monthly ad-

1 vance child payments to such taxpayer would have  
2 increased during such period if such determination  
3 had been made immediately.

4 “(4) RECAPTURE OF PAYMENTS.—If, pursuant  
5 to the procedures established under paragraph  
6 (1)(B), the Secretary makes payments with respect  
7 to the child during the period during which the de-  
8 termination is made—

9 “(A) the Secretary shall provide each tax-  
10 payer which receives such payments notice that  
11 such payments may be subject to recapture,  
12 and

13 “(B) upon making such determination, the  
14 Secretary shall determine on the basis of the  
15 facts and circumstances of each such taxpayer  
16 whether any such payments should be subject  
17 to recapture and shall so notify each such tax-  
18 payer.

19 “(g) RULES RELATED TO GRACE PERIODS AND  
20 HARDSHIPS.—

21 “(1) AUTOMATIC GRACE PERIOD.—

22 “(A) IN GENERAL.—Notwithstanding sub-  
23 section (f), in the case of any failure or delay  
24 in establishing a period of presumptive eligi-  
25 bility with respect to which the taxpayer elects

1 the application of this subparagraph, credit  
2 under section 24A or retroactive payment under  
3 this section (similar to the payment described in  
4 subsection (f)(3)) shall be allowed or made with  
5 respect to so much of the period of such failure  
6 or delay as does not exceed 3 months. The pre-  
7 ceding sentence shall not apply if the Secretary  
8 determines that such failure or delay was due  
9 to fraud or reckless or intentional disregard of  
10 rules and regulations.

11 “(B) LIMITATION.—Subparagraph (A)  
12 shall not apply with respect to any taxpayer  
13 more than once during any 36-month period.

14 “(2) HARDSHIP.—Notwithstanding subsection  
15 (f), if the Secretary determines that a failure or  
16 delay in establishing a period of presumptive eligi-  
17 bility with respect to any specified child was due to  
18 domestic violence, serious illness, natural disaster, or  
19 any other hardship, credit under section 24A or ret-  
20 roactive payment under this section (similar to the  
21 payment described in subsection (f)(3)) shall be al-  
22 lowed or made with respect to so much of the period  
23 of such failure or delay as does not exceed 6 months.

24 “(h) PROVISIONS RELATED TO FORM, MANNER, AND  
25 TREATMENT OF PAYMENTS.—

1           “(1) APPLICATION OF ELECTRONIC FUNDS PAY-  
2           MENT REQUIREMENT.—The payments made by the  
3           Secretary under subsection (a) shall be made by  
4           electronic funds transfer to the same extent and in  
5           the same manner as if such payments were Federal  
6           payments not made under this title.

7           “(2) APPLICATION OF CERTAIN RULES.—Rules  
8           similar to the rules of subparagraphs (B) and (C) of  
9           section 6428A(f)(3) shall apply for purposes of this  
10          section, applied by substituting ‘January 1, 2022’  
11          for ‘January 1, 2019’ in clauses (i) and (ii) of such  
12          subparagraph (B).

13          “(3) EXCEPTION FROM REDUCTION OR OFF-  
14          SET.—Any payment made to any individual under  
15          this section shall not be—

16                 “(A) subject to reduction or offset pursu-  
17                 ant to subsection (c), (d), (e), or (f) of section  
18                 6402 or any similar authority permitting offset,  
19                 or

20                 “(B) reduced or offset by other assessed  
21                 Federal taxes that would otherwise be subject  
22                 to levy or collection.

23          “(4) APPLICATION OF ADVANCE PAYMENTS IN  
24          THE POSSESSIONS OF THE UNITED STATES.—

25                 “(A) PUERTO RICO.—

1                   “(i) For application of child tax credit  
2                   to residents of Puerto Rico, see section  
3                   24A(d).

4                   “(ii) For application of monthly ad-  
5                   vance child payments to residents of Puer-  
6                   to Rico, see subsection (b)(4).

7                   “(B) MIRROR CODE POSSESSIONS.—In the  
8                   case of any possession of the United States with  
9                   a mirror code tax system (as defined in section  
10                  24A(i)(1)(C)), this section shall not be treated  
11                  as part of the income tax laws of the United  
12                  States for purposes of determining the income  
13                  tax law of such possession unless such posses-  
14                  sion elects to have this section be so treated.

15                  “(C) ADMINISTRATIVE EXPENSES OF AD-  
16                  VANCE PAYMENTS.—

17                  “(i) MIRROR CODE POSSESSIONS.—In  
18                  the case of any possession described in  
19                  subparagraph (B) which makes the elec-  
20                  tion described in such subparagraph, the  
21                  amount otherwise paid by the Secretary to  
22                  such possession under section 24A(i)(1)(A)  
23                  with respect to taxable years beginning in  
24                  2023, 2024, and 2025 shall each be in-  
25                  creased by \$300,000 if such possession has

1 a plan, which has been approved by the  
2 Secretary, for making monthly advance  
3 child payments consistent with such elec-  
4 tion.

5 “(ii) AMERICAN SAMOA.— The  
6 amount otherwise paid by the Secretary to  
7 American Samoa under subparagraph (A)  
8 of section 24A(i)(3) with respect to taxable  
9 years beginning in 2023, 2024, and 2025  
10 shall each be increased by \$300,000 if the  
11 plan described in subparagraph (B) of  
12 such section includes a program, which has  
13 been approved by the Secretary, for mak-  
14 ing monthly advance child payments under  
15 rules similar to the rules of this section.

16 “(iii) TIMING OF PAYMENT.—The  
17 Secretary may pay, upon the request of the  
18 possession of the United States to which  
19 the payment is to be made, the amount of  
20 the increase determined under clause (i) or  
21 (ii), respectively, immediately upon ap-  
22 proval of the plan with respect to which  
23 such payment relates.

24 “(i) APPLICATION OF CERTAIN DEFINITIONS AND  
25 RULES APPLICABLE TO CHILD TAX CREDIT.—

1           “(1) DEFINITIONS.—Except as otherwise pro-  
2           vided in this section, terms used in this section  
3           which are also used in section 24A shall have the  
4           same respective meanings as when used in section  
5           24A.

6           “(2) TREATMENT OF CERTAIN DEATHS.—A  
7           child shall not be taken into account in determining  
8           the monthly advance child payment for any calendar  
9           month if the death of such child before the begin-  
10          ning of the calendar year which includes such month  
11          is known to the Secretary as of date on which the  
12          Secretary estimates such payment.

13          “(3) IDENTIFICATION REQUIREMENTS.—Rules  
14          similar to the rules which apply under section  
15          24A(e) shall apply for purposes of this section ex-  
16          cept that such rules shall apply with respect to the  
17          return of tax for the reference taxable year or, in the  
18          case of information provided through a specified al-  
19          ternative mechanism, with respect to the information  
20          provided through such mechanism.

21          “(4) RESTRICTIONS ON TAXPAYERS WHO IM-  
22          PROPERLY CLAIMED CREDIT OR MONTHLY ADVANCE  
23          CHILD PAYMENTS.—For restrictions on taxpayers  
24          who improperly claimed credit or monthly advance  
25          child payments, see section 24A(f).

1 “(j) NOTICE OF PAYMENTS.—

2 “(1) IN GENERAL.—Not later than January 31  
3 of the calendar year following any calendar year dur-  
4 ing which the Secretary makes one or more pay-  
5 ments to any taxpayer under this section, the Sec-  
6 retary shall provide such taxpayer with a written no-  
7 tice which includes—

8 “(A) the taxpayer’s taxpayer identity (as  
9 defined in section 6103(b)(6)),

10 “(B) the aggregate amount of such pay-  
11 ments made to such taxpayer during such cal-  
12 endar year, and

13 “(C) such other information as the Sec-  
14 retary determines appropriate.

15 “(2) CERTAIN PAYMENTS SUBJECT TO RECAP-  
16 TURE.—In the case of any payments made to a tax-  
17 payer which the Secretary has determined are sub-  
18 ject to recapture, the notice provided under para-  
19 graph (1) to such taxpayer shall include the amount  
20 of such payments.

21 “(k) REGULATIONS.—The Secretary shall issue such  
22 regulations or other guidance as the Secretary determines  
23 necessary or appropriate to carry out the purposes of this  
24 section.

1 “(l) TERMINATION.—No payments shall be made  
2 under the program established under subsection (a) with  
3 respect to any month beginning after December 31,  
4 2025.”.

5 (c) SUSPENSION OF CHILD TAX CREDIT DURING PE-  
6 RIOD THAT MONTHLY CHILD TAX CREDIT IS IN EF-  
7 FECT.—Section 24 is amended by adding at the end the  
8 following new subsection:

9 “(l) COORDINATION WITH MONTHLY CHILD TAX  
10 CREDIT.—This section shall not apply to (and no payment  
11 shall be made under subsection (k) with respect to) any  
12 taxable year beginning after December 31, 2022, and be-  
13 fore January 1, 2026.”.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Section 26(b)(2) is amended by striking  
16 “and” at the end of subparagraph (Y), by striking  
17 the period at the end of subparagraph (Z) and in-  
18 serting “, and”, and by adding at the end the fol-  
19 lowing new subparagraph:

20 “(AA) section 24A(g)(2) (relating to recap-  
21 ture of certain monthly advance child pay-  
22 ments).”.

23 (2) Section 152(f)(6)(B)(ii) is amended to read  
24 as follows:

1                   “(ii) the credits under sections 24,  
2                   24A, and 24B and the payments under  
3                   sections 7527A and 7527B,”.

4                   (3) Section 3402(f)(1)(C) is amended by insert-  
5                   ing “or section 24A (determined after application of  
6                   subsection (g) thereof)” after “section 24 (deter-  
7                   mined after application of subsection (j) thereof)”.

8                   (4) Section 6103(l)(13)(A)(v) is amended by in-  
9                   sert “or section 24A, as the case may be” after  
10                  “section 24”.

11                  (5) Section 6211(b)(4)(A) is amended by insert-  
12                  ing “24A by reason of subsection (d) thereof,” after  
13                  “24 by reason of subsections (d) and (i)(1) there-  
14                  of,”.

15                  (6) Section 6213(g)(2)(I) is amended by insert-  
16                  ing “or section 24A(e) (relating to monthly child tax  
17                  credit)” after “section 24(e) (relating to child tax  
18                  credit)”.

19                  (7) Section 6213(g)(2)(L) is amended by insert-  
20                  ing “24A,” after “24,”.

21                  (8) Section 6213(g)(2)(P) is amended—

22                         (A) by inserting “or 24A(f)(2)” after “sec-  
23                         tion 24(g)(2)”,

24                         (B) by inserting “or 24A” after “under  
25                         section 24”, and

1 (C) by striking “subsection (g)(1) thereof”  
2 and inserting “section 24(g)(1) or section  
3 24A(f)(1), respectively”.

4 (9) Section 6695(g)(2) is amended by inserting  
5 “24A,” after “24,”.

6 (10) Paragraph (2) of section 1324(b) of title  
7 31, United States Code, as amended by the pre-  
8 ceding provisions of this Act, is amended—

9 (A) by inserting “24A,” after “24,” and

10 (B) by inserting “7527B,” after “7527A,”.

11 (11) The table of sections for subpart A of part  
12 IV of subchapter A of chapter 1 is amended by in-  
13 serting after the item relating to section 24 the fol-  
14 lowing new items:

“Sec. 24A. Monthly child tax credit.

“Sec. 24B. Credit for certain other dependents.”.

15 (12) The table of sections for chapter 77 is  
16 amended by inserting after the item relating to sec-  
17 tion 7527A the following new item:

“Sec. 7527B. Monthly payments of child tax credit.”.

18 (e) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as otherwise pro-  
20 vided in this subsection, the amendments made by  
21 this section shall apply to taxable years beginning  
22 after December 31, 2022.

1 (2) MONTHLY ADVANCE CHILD PAYMENTS.—

2 The amendments made by subsection (b) shall apply  
3 to payments made for calendar months beginning  
4 after December 31, 2022.

5 **SEC. 137104. REFUNDABLE CHILD TAX CREDIT AFTER 2025.**

6 (a) IN GENERAL.—Section 24, as amended by the  
7 preceding provisions of this Act, is amended by adding at  
8 the end the following new subsection:

9 “(m) REFUNDABLE CREDIT AFTER 2025.—In the  
10 case of any taxable year beginning after December 31,  
11 2025, if the taxpayer (in the case of a joint return, either  
12 spouse) has a principal place of abode in the United States  
13 (determined as provided in section 32) for more than one-  
14 half of the taxable year or is a bona fide resident of Puerto  
15 Rico (within the meaning of section 937(a)) for such tax-  
16 able year—

17 “(1) subsection (d) shall not apply, and

18 “(2) the credit determined under subsection (a)  
19 (after application of paragraph (1)) shall be allowed  
20 under subpart C (and not allowed under this sub-  
21 part).”.

22 (b) CONFORMING AMENDMENTS RELATED TO POS-  
23 SESSIONS OF THE UNITED STATES.—

24 (1) PUERTO RICO.—Section 24(k)(2) is amend-  
25 ed—

1 (A) in subparagraph (B) (as amended by  
2 the preceding provisions of this Act)—

3 (i) by inserting “and before January  
4 1, 2026,” after “December 31, 2022,”  
5 and

6 (ii) by inserting “AND BEFORE 2026”  
7 after “AFTER 2022”, and

8 (B) by adding at the end the following new  
9 subparagraph:

10 “(C) APPLICATION TO TAXABLE YEARS  
11 AFTER 2025.—For application of refundable  
12 credit to residents of Puerto Rico for taxable  
13 years after 2025, see subsection (m).”.

14 (2) AMERICAN SAMOA.—Section 24(k)(3)(C)(ii),  
15 as amended by the preceding provisions of this Act,  
16 is amended—

17 (A) in subclause (I), by striking “and” at  
18 the end,

19 (B) in subclause (II)—

20 (i) by inserting “and before January  
21 1, 2026,” after “after December 31,  
22 2022,” and

23 (ii) by striking the period at the end  
24 and inserting “, and”, and

1 (C) by adding at the end the following new  
2 subclause:

3 “(III) if such taxable year begins  
4 after December 31, 2025, subsection  
5 (m) shall be applied by substituting  
6 ‘Puerto Rico or American Samoa’ for  
7 ‘Puerto Rico’.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2025.

11 **SEC. 137105. APPROPRIATIONS.**

12 Immediately upon the enactment of this Act, in addi-  
13 tion to amounts otherwise available, there are appro-  
14 priated out of any money in the Treasury not otherwise  
15 appropriated:

16 (1) \$9,000,000,000 to remain available until  
17 September 30, 2026, for necessary expenses for the  
18 Internal Revenue Service to administer the Child  
19 Tax Credit, and advance payments of the Child Tax  
20 Credit, including the costs of disbursing such pay-  
21 ments, which shall supplement and not supplant any  
22 other appropriations that may be available for this  
23 purpose, and

24 (2) \$1,000,000,000 is appropriated to the De-  
25 partment of the Treasury, to remain available until

1 September 30, 2026, to support efforts to increase  
2 enrollment of eligible families in the Child Tax Credit,  
3 it, for advance payments of the Child Tax Credit,  
4 and for other tax benefits, including but not limited  
5 to program outreach, costs of data sharing arrange-  
6 ments, systems changes, forms changes, and related  
7 efforts, and efforts by federal agencies to facilitate  
8 the cross-enrollment of beneficiaries of other pro-  
9 grams in the Child Tax Credit, and for advance pay-  
10 ments of the Child Tax Credit, including by estab-  
11 lishing intergovernmental cooperative agreements  
12 with states and local governments, tribal govern-  
13 ments, and possessions of the United States: Pro-  
14 vided, that such amount shall be available in addi-  
15 tion to any amounts otherwise available: Provided  
16 further, that these funds may be awarded by federal  
17 agencies to state and local governments, tribal gov-  
18 ernments, and possessions of the United States, and  
19 private entities, including organizations dedicated to  
20 free tax return preparation.



1           (2) by striking “\$15,000” and inserting  
2           “\$125,000”.

3           (d) APPLICATION OF INCREASED DOLLAR LIMITA-  
4 TION TO SPOUSES WHO ARE STUDENTS OR INCAPABLE  
5 OF CARING FOR THEMSELVES.—Section 21(d)(2) is  
6 amended by striking “of not less than—” and all that fol-  
7 lows through “In the case of” and inserting “of not less  
8 than  $\frac{1}{12}$  of the dollar amount in effect under paragraph  
9 (1) or (2) of subsection (c) (whichever is applicable to the  
10 taxpayer for the taxable year). In the case of”.

11          (e) INFLATION ADJUSTMENT.—Section 21(e) is  
12 amended by adding at the end the following new para-  
13 graph:

14           “(11) INFLATION ADJUSTMENT.—

15                   “(A) IN GENERAL.—In the case of any  
16 taxable year beginning after December 31,  
17 2021, the \$125,000 amount in subsection  
18 (a)(2), the \$8,000 amount in subsection (c)(1),  
19 and the \$16,000 amount in subsection (c)(2)  
20 shall each be increased by an amount equal  
21 to—

22                           “(i) such dollar amount, multiplied by

23                           “(ii) the cost-of-living adjustment de-  
24 termined under section 1(f)(3) for the cal-  
25 endar year in which the taxable year be-

1 gins, determined by substituting ‘calendar  
2 year 2020’ for ‘calendar year 2016’ in sub-  
3 paragraph (A)(ii) thereof.

4 “(B) ROUNDING.—

5 “(i) LIMITATION BASED ON ADJUSTED  
6 GROSS INCOME.—If any increase deter-  
7 mined under subparagraph (A) of the  
8 \$125,000 dollar amount in subsection  
9 (a)(2) is not a multiple of \$5,000, such  
10 amount shall be rounded to the nearest  
11 multiple of \$5,000.

12 “(i) DOLLAR LIMITATIONS.—If any  
13 increase determined under subparagraph  
14 (A) of any dollar amount in subsection (c)  
15 is not a multiple of \$100, such amount  
16 shall be rounded to the nearest multiple of  
17 \$100.”.

18 (f) APPLICATION OF PHASEOUT TO HIGH INCOME  
19 INDIVIDUALS.—

20 (1) IN GENERAL.—Section 21(a)(2) is amended  
21 by striking “20 percent” and inserting “the phase-  
22 out percentage”.

23 (2) PHASEOUT PERCENTAGE.—Section 21(a) is  
24 amended by adding at the end the following new  
25 paragraph:

1           “(3) PHASEOUT PERCENTAGE.—For purposes  
2 of paragraph (2), the term ‘phaseout percentage’  
3 means 20 percent reduced (but not below zero) by  
4 1 percentage point for each \$2,000 (or fraction  
5 thereof) by which the taxpayer’s adjusted gross in-  
6 come for the taxable year exceeds \$400,000.”.

7           (g) APPLICATION OF CREDIT IN POSSESSIONS.—Sec-  
8 tion 21(h) is amended—

9           (1) in paragraph (1)—

10           (A) by striking “The Secretary” and in-  
11 sserting “With respect to taxable years begin-  
12 ning in or with calendar years after 2020, the  
13 Secretary”, and

14           (B) by striking “with respect to taxable  
15 years beginning in or with 2021”,

16           (2) in paragraph (2)—

17           (A) by striking “The Secretary” and in-  
18 sserting “With respect to taxable years begin-  
19 ning in or with calendar years after 2020, the  
20 Secretary”, and

21           (B) by striking “with respect to taxable  
22 years beginning in or with 2021”, and

23           (3) in paragraph (3), by striking “in or with  
24 2021” and inserting “after December 31, 2020”.

1 (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2021.

4 **SEC. 137202. INCREASE IN EXCLUSION FOR EMPLOYER-**  
5 **PROVIDED DEPENDENT CARE ASSISTANCE**  
6 **MADE PERMANENT.**

7 (a) IN GENERAL.—Section 129(a)(2)(A) is amended  
8 by striking “\$5,000 (\$2,500” and inserting “\$10,500  
9 (half such dollar amount”.

10 (b) INFLATION ADJUSTMENT.—Section 129(e) is  
11 amended by adding at the end the following new para-  
12 graph:

13 “(10) INFLATION ADJUSTMENT.—

14 “(A) IN GENERAL.—In the case of any  
15 taxable year beginning after December 31,  
16 2021, the \$10,500 amount in subsection  
17 (a)(2)(A) shall be increased by an amount equal  
18 to—

19 “(i) such dollar amount, multiplied by

20 “(ii) the cost-of-living adjustment de-  
21 termined under section 1(f)(3) for the cal-  
22 endar year in which the taxable year be-  
23 gins, determined by substituting ‘calendar  
24 year 2020’ for ‘calendar year 2016’ in sub-  
25 paragraph (A)(ii) thereof.

1           “(B) ROUNDING.—If any increase deter-  
2           mined under subparagraph (A) is not a multiple  
3           of \$100, such amount shall be rounded to the  
4           nearest multiple of \$100.”.

5           (c) CONFORMING AMENDMENT.—Section 129(a)(2)  
6           is amended by striking subparagraph (D).

7           (d) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to taxable years beginning after  
9           December 31, 2021.

10          (e) RETROACTIVE PLAN AMENDMENTS.—A plan that  
11          otherwise satisfies all applicable requirements of sections  
12          125 and 129 of the Internal Revenue Code of 1986 (in-  
13          cluding any rules or regulations thereunder) shall not fail  
14          to be treated as a cafeteria plan or dependent care assist-  
15          ance program merely because such plan is amended pursu-  
16          ant to a provision under this subsection and such amend-  
17          ment is retroactive, if—

18               (1) such amendment is adopted no later than  
19               the last day of the plan year in which the amend-  
20               ment is effective, and

21               (2) the plan is operated consistent with the  
22               terms of such amendment during the period begin-  
23               ning on the effective date of the amendment and  
24               ending on the date the amendment is adopted.

1           **PART 3—SUPPORTING CAREGIVERS**

2   **SEC. 137301. PAYROLL TAX CREDIT FOR CHILD CARE**  
3                   **WORKERS.**

4           (a) IN GENERAL.—Subchapter D of chapter 21 is  
5 amended by adding at the end the following:

6   **“SEC. 3135. PAYROLL CREDIT FOR CERTAIN WAGES PAID**  
7                   **TO CHILD CARE WORKERS.**

8           “(a) IN GENERAL.—In the case of an eligible child  
9 care employer, there shall be allowed as a credit against  
10 applicable employment taxes for each calendar quarter an  
11 amount equal to 50 percent of the qualified child care  
12 wages paid with respect to each eligible employee of such  
13 employer for such calendar quarter.

14          “(b) LIMITATIONS AND REFUNDABILITY.—

15               “(1) LIMITATION ON WAGES TAKEN INTO AC-  
16 COUNT.—The amount of qualified child care wages  
17 with respect to any eligible employee which may be  
18 taken into account under subsection (a) by the eligi-  
19 ble child care employer for any calendar quarter  
20 shall not exceed \$2,500.

21               “(2) CREDIT LIMITED TO CERTAIN EMPLOY-  
22 MENT TAXES.—The credit allowed by subsection (a)  
23 with respect to any calendar quarter shall not exceed  
24 the applicable employment taxes (reduced by any  
25 credits allowed under sections 3131, 3132, 3134,  
26 and 6432) on the wages paid with respect to the em-

1       ployment of all the employees of the eligible child  
2       care employer for such calendar quarter.

3           “(3) REFUNDABILITY OF EXCESS CREDIT.—

4               “(A) CREDIT IS REFUNDABLE.—If the  
5       amount of the credit under subsection (a) ex-  
6       ceeds the limitation of paragraph (2) for any  
7       calendar quarter, such excess shall be treated  
8       as an overpayment that shall be refunded under  
9       sections 6402(a) and 6413(b).

10           “(B) ADVANCING CREDIT.—In anticipation  
11       of the credit, including the refundable portion  
12       under subparagraph (A), the credit shall be ad-  
13       vanced, according to forms and instructions  
14       provided by the Secretary, up to an amount cal-  
15       culated under subsection (a), subject to the lim-  
16       its under paragraph (1), all calculated through  
17       the end of the most recent payroll period in the  
18       quarter.

19           “(c) ELIGIBLE CHILD CARE EMPLOYER.—For pur-  
20       poses of this section, the term ‘eligible child care employer’  
21       means any employer which operates one or more qualified  
22       child care facilities.

23           “(d) QUALIFIED CHILD CARE FACILITY.—For pur-  
24       poses of this section, the term ‘qualified child care facility’  
25       means any facility which is certified as an HHS Partici-

1 pating Child Care Provider by the Secretary of Health and  
2 Human Services under section 418A(c) of the Social Secu-  
3 rity Act.

4 “(e) ELIGIBLE EMPLOYEE.—For purposes of this  
5 section, the term ‘eligible employee’ means, with respect  
6 to any eligible child care employer for any calendar quar-  
7 ter, any employee of such employer if—

8 “(1) the aggregate wages paid to such employee  
9 for such quarter do not exceed 25 percent of the dol-  
10 lar amount in effect for such quarter under section  
11 414(q)(1)(B)(i) (relating to highly compensated em-  
12 ployees), and

13 “(2) the aggregate wages paid to such employee  
14 for the 1-year period ending with the close of such  
15 quarter do not exceed 100 percent of such dollar  
16 amount.

17 “(f) QUALIFIED CHILD CARE WAGES.—For purposes  
18 of this section—

19 “(1) IN GENERAL.—The term ‘qualified child  
20 care wages’ means, with respect to any eligible em-  
21 ployee for any calendar quarter, so much of the child  
22 care wages paid by the eligible child care employer  
23 to such employee during such quarter as are paid at  
24 a rate in excess of the applicable minimum rate.  
25 Such term shall not include any wages paid by an

1 eligible child care employer during any period during  
2 which the certification described in subsection (d) is  
3 not in effect.

4 “(2) APPLICABLE MINIMUM RATE.—The term  
5 ‘applicable minimum rate’ means, with respect to  
6 wages paid to any eligible employee, the rate of basic  
7 pay which is payable for GS-3, step 1 of the General  
8 Schedule under subchapter III of chapter 53 of title  
9 5, United States Code (including any applicable lo-  
10 cality-based comparability payment under section  
11 5304 of such title, or similar authority) at the time  
12 such wages are paid and determined with respect to  
13 the locality in which the services are provided.

14 “(3) CHILD CARE WAGES.—The term ‘child  
15 care wages’ means wages paid for the services of the  
16 employee to provide child care at a qualified child  
17 care facility or to provide support services for such  
18 a facility.

19 “(4) EXCEPTION.—The term ‘child care wages’  
20 shall not include any wages taken into account  
21 under section 41, 45A, 45P, 45R, 51, 1396, 3131,  
22 3132, 3134, or 6432.

23 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—  
24 For purposes of this section—

1           “(1) APPLICABLE EMPLOYMENT TAXES.—The  
2 term ‘applicable employment taxes’ means the fol-  
3 lowing:

4           “(A) The taxes imposed under section  
5 3111(b).

6           “(B) So much of the taxes imposed under  
7 section 3221(a) as are attributable to the rate  
8 in effect under section 3111(b).

9           “(2) WAGES.—

10           “(A) IN GENERAL.—The term ‘wages’  
11 means wages (as defined in section 3121(a)),  
12 determined without regard to paragraphs (1)  
13 through (22) of section 3121(b)) and compensa-  
14 tion (as defined in section 3231(e), determined  
15 without regard to the sentence in paragraph (1)  
16 thereof which begins ‘Such term does not in-  
17 clude remuneration’).

18           “(B) ALLOWANCE FOR CERTAIN HEALTH  
19 PLAN EXPENSES.—

20           “(i) IN GENERAL.—Such term shall  
21 include amounts paid by the eligible child  
22 care employer to provide and maintain a  
23 group health plan (as defined in section  
24 5000(b)(1)), but only to the extent that  
25 such amounts are excluded from the gross

1 income of employees by reason of section  
2 106(a).

3 “(ii) ALLOCATION RULES.—For pur-  
4 poses of this section, amounts treated as  
5 wages under clause (i) shall be treated as  
6 paid with respect to any eligible employee  
7 (and with respect to any period) to the ex-  
8 tent that such amounts are properly allo-  
9 cable to such employee (and to such pe-  
10 riod) in such manner as the Secretary may  
11 prescribe. Except as otherwise provided by  
12 the Secretary, such allocation shall be  
13 treated as properly made if made on the  
14 basis of being pro rata among periods of  
15 coverage.

16 “(3) OTHER TERMS.—Any term used in this  
17 section which is also used in this chapter or chapter  
18 22 shall have the same meaning as when used in  
19 such chapter.

20 “(4) DENIAL OF DOUBLE BENEFIT.—For pur-  
21 poses of chapter 1, the gross income of the em-  
22 ployer, for the taxable year which includes the last  
23 day of any calendar quarter with respect to which a  
24 credit is allowed under this section, shall be in-  
25 creased by the amount of such credit.

1           “(5) ELECTION TO NOT TAKE CERTAIN WAGES  
2 INTO ACCOUNT.—This section shall not apply to so  
3 much of the qualified child care wages paid by an  
4 eligible child care employer as such employer elects  
5 (at such time and in such manner as the Secretary  
6 may prescribe) to not take into account for purposes  
7 of this section.

8           “(6) CERTAIN GOVERNMENTAL EMPLOYERS.—  
9 No credit shall be allowed under this section to the  
10 Government of the United States or to any agency  
11 or instrumentality thereof. The preceding sentence  
12 shall not apply to any organization described in sec-  
13 tion 501(c)(1) and exempt from tax under section  
14 501(a).

15           “(7) COORDINATION WITH CERTAIN PRO-  
16 GRAMS.—

17           “(A) IN GENERAL.—This section shall not  
18 apply to so much of the qualified child care  
19 wages paid by an eligible child care employer as  
20 are taken into account as payroll costs in con-  
21 nection with—

22                   “(i) a covered loan under section  
23                   7(a)(37) or 7A of the Small Business Act,

1                   “(ii) a grant under section 324 of the  
2                   Economic Aid to Hard-Hit Small Busi-  
3                   nesses, Non-Profits, and Venues Act, or

4                   “(iii) a restaurant revitalization grant  
5                   under section 5003 of the American Res-  
6                   cue Plan Act of 2021.

7                   “(B) APPLICATION WHERE PPP LOANS  
8                   NOT FORGIVEN.—The Secretary shall issue  
9                   guidance providing that payroll costs paid dur-  
10                  ing the covered period shall not fail to be treat-  
11                  ed as qualified child care wages under this sec-  
12                  tion by reason of subparagraph (A)(i) to the ex-  
13                  tent that—

14                  “(i) a covered loan of the taxpayer  
15                  under section 7(a)(37) of the Small Busi-  
16                  ness Act is not forgiven by reason of a de-  
17                  cision under section 7(a)(37)(J) of such  
18                  Act, or

19                  “(ii) a covered loan of the taxpayer  
20                  under section 7A of the Small Business  
21                  Act is not forgiven by reason of a decision  
22                  under section 7A(g) of such Act.

23                  Terms used in the preceding sentence which are  
24                  also used in section 7A(g) or 7(a)(37)(J) of the  
25                  Small Business Act shall, when applied in con-

1           nection with either such section, have the same  
2           meaning as when used in such section, respec-  
3           tively.

4           “(8) AGGREGATION RULE.—All persons treated  
5           as a single employer under subsection (a) or (b) of  
6           section 52, or subsection (m) or (o) of section 414,  
7           shall be treated as one employer for purposes of this  
8           section.

9           “(9) THIRD PARTY PAYORS.—Any credit al-  
10          lowed under this section shall be treated as a credit  
11          described in section 3511(d)(2).

12          “(10) INFLATION ADJUSTMENT.—In the case of  
13          any taxable year beginning after December 31,  
14          2022, the \$2,500 amount in subsection (b)(1) shall  
15          be increased by an amount equal to—

16                 “(A) such dollar amount, multiplied by

17                 “(B) the cost-of-living adjustment deter-  
18                 mined under section 1(f)(3) for the calendar  
19                 year in which the taxable year begins, deter-  
20                 mined by substituting ‘calendar year 2021’ for  
21                 ‘calendar year 2016’ in subparagraph (A)(ii)  
22                 thereof.

23          If any amount as adjusted under the preceding sen-  
24          tence is not a multiple of \$100, such amount shall  
25          be rounded to the nearest multiple of \$100.

1       “(h) REGULATIONS.—The Secretary shall prescribe  
2 such regulations or other guidance as may be necessary  
3 to carry out the purposes of this section, including—

4           “(1) regulations or other guidance to prevent  
5 the avoidance of the purposes of the limitations  
6 under this section,

7           “(2) regulations or other guidance to minimize  
8 compliance and record-keeping burdens under this  
9 section,

10          “(3) regulations or other guidance providing for  
11 waiver of penalties for failure to deposit amounts in  
12 anticipation of the allowance of the credit allowed  
13 under this section,

14          “(4) regulations or other guidance for recap-  
15 turing the benefit of credits determined under this  
16 section in cases where there is a subsequent adjust-  
17 ment to the credit determined under subsection (a),

18          “(5) regulations or other guidance to permit the  
19 advancement of the credit determined under sub-  
20 section (a), and

21          “(6) regulations or other guidance for applying  
22 subsection (f) with respect to eligible employees not  
23 paid at a single rate of pay.”.

1 (b) REFUNDS.—Paragraph (2) of section 1324(b) of  
2 title 31, United States Code, is amended by inserting  
3 “3135,” after “3134,”.

4 (c) CLERICAL AMENDMENT.—The table of sections  
5 for subchapter D of chapter 21 is amended by adding at  
6 the end the following:

“Sec. 3135. Payroll credit for certain wages paid to child care workers.”.

7 (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to calendar quarters beginning  
9 after December 31, 2021.

10 **SEC. 137302. CREDIT FOR CAREGIVER EXPENSES.**

11 (a) IN GENERAL.—Subpart A of part IV of sub-  
12 chapter A of chapter 1 is amended by inserting after sec-  
13 tion 25D the following new section:

14 **“SEC. 25E. CREDIT FOR CAREGIVER EXPENSES.**

15 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
16 dividual for whom there are 1 or more qualified care re-  
17 cipients, there shall be allowed as a credit against the tax  
18 imposed by this chapter for the taxable year an amount  
19 equal to 50 percent of the qualified expenses paid or in-  
20 curred by such individual during the taxable year (and not  
21 compensated for by insurance or otherwise).

22 “(b) QUALIFIED CARE RECIPIENT.—For purposes of  
23 this section—

1           “(1) IN GENERAL.—The term ‘qualified care re-  
2           cipient’ means, with respect to any taxable year, any  
3           individual who—

4                   “(A) is the spouse of the taxpayer, or any  
5                   other person who bears a relationship to the  
6                   taxpayer described in any of subparagraphs (A)  
7                   through (H) of section 152(d)(2),

8                   “(B) has been certified, before the due  
9                   date for filing the return of tax for the taxable  
10                  year, by a licensed health care practitioner (as  
11                  defined in section 7702B(c)(4)) as being an in-  
12                  dividual with long-term care needs (as defined  
13                  in paragraph (3)) for a period—

14                           “(i) which is expected to be at least  
15                           180 consecutive days, and

16                           “(ii) a portion of which occurs within  
17                           the taxable year, and

18                   “(C) resides in a personal residence and  
19                  not an institutional care facility.

20           “(2) PERIOD FOR MAKING CERTIFICATION.—  
21           Notwithstanding paragraph (1)(B), a certification  
22           shall not be treated as valid unless it is made within  
23           the 18-month period ending on such due date (or  
24           such other period as the Secretary prescribes).

1           “(3) INDIVIDUALS WITH LONG-TERM CARE  
2           NEEDS.—For purposes of this subsection, the term  
3           ‘individual with long-term care needs’ means any in-  
4           dividual who meets the requirements of any of the  
5           following subparagraphs:

6                   “(A) The individual is at least 6 years of  
7                   age and—

8                           “(i) is unable to perform (without  
9                           substantial assistance from another indi-  
10                           vidual) at least 2 activities of daily living  
11                           (as defined in section 7702B(c)(2)(B)) due  
12                           to a loss of functional capacity, or

13                           “(ii) requires substantial supervision  
14                           to protect such individual from threats to  
15                           health and safety due to severe cognitive  
16                           impairment and is unable to perform, with-  
17                           out reminding or cuing assistance, at least  
18                           1 activity of daily living (as so defined) or,  
19                           to the extent provided in regulations pre-  
20                           scribed by the Secretary (in consultation  
21                           with the Secretary of Health and Human  
22                           Services), is unable to engage in age ap-  
23                           propriate activities.

24                   “(B) The individual is at least 2 but not  
25                   6 years of age and is unable, due to a loss of

1 functional capacity, to perform (without sub-  
2 stantial assistance from another individual) at  
3 least 2 of the following activities:

4 “(i) Eating.

5 “(ii) Transferring.

6 “(iii) Mobility.

7 “(C) The individual is under 2 years of age  
8 and requires specific durable medical equipment  
9 by reason of a severe health condition or re-  
10 quires a skilled practitioner trained to address  
11 the individual’s condition to be available if the  
12 individual’s parents or guardians are absent.

13 “(4) INSTITUTIONAL CARE FACILITY.—For pur-  
14 poses of paragraph (1)(C), an institutional care fa-  
15 cility (including two or more places, establishments,  
16 or institutions owned by the same legal entity) in-  
17 cludes any congregate, protected living residential  
18 arrangement that provides or coordinates personal  
19 or health care services, including assistance with the  
20 activities of daily living and social care, for two or  
21 more adults who are aged, infirm, or disabled

22 “(c) QUALIFIED EXPENSES.—For purposes of this  
23 section—

1           “(1) IN GENERAL.—The term ‘qualified ex-  
2           penses’ means expenses for goods, services, and sup-  
3           ports described in paragraph (2) which—

4                   “(A) assist a qualified care recipient with  
5                   accomplishing activities of daily living (as de-  
6                   fined in section 7702B(c)(2)(B)) and instru-  
7                   mental activities of daily living (as defined in  
8                   section 1915(k)(6)(F) of the Social Security  
9                   Act), and

10                   “(B) are provided solely for use by such  
11                   qualified care recipient.

12           “(2) ITEMS DESCRIBED.—The goods, services,  
13           and supports described in this paragraph are—

14                   “(A) human assistance, supervision, cuing,  
15                   and standby assistance,

16                   “(B) health maintenance tasks (such as  
17                   medication management),

18                   “(C) respite care,

19                   “(D) assistive technologies and devices (in-  
20                   cluding remote health monitoring),

21                   “(E) accessibility modifications of the  
22                   qualified care recipient’s residence,

23                   “(F) counseling, support groups, or train-  
24                   ing relating to caring for a qualified care recipi-  
25                   ent, and

1           “(G) any other items which directly relate  
2           to the health and safety of a qualified care re-  
3           cipient, as determined by the Secretary after  
4           consultation with the Secretary of Health and  
5           Human Services.

6           “(3) DOLLAR LIMITATION.—The amount taken  
7           into account as qualified expenses for any taxable  
8           year shall not exceed \$4,000.

9           “(4) DENIAL OF DOUBLE BENEFIT.—Amounts  
10          taken into account for purposes of section 21, 129,  
11          213, or 223(f), or such other circumstances as may  
12          be provided by the Secretary, shall not be taken into  
13          account as qualified expenses.

14          “(5) DOCUMENTATION REQUIREMENT.—An ex-  
15          pense shall not be treated as a qualified expense un-  
16          less the taxpayer substantiates such expense under  
17          such regulations or guidance as the Secretary shall  
18          provide.

19          “(d) CREDIT PHASEOUT.—The 50 percent rate under  
20          subsection (a) shall be reduced by 1 percentage point for  
21          every \$2,500 or fraction thereof by which the taxpayer’s  
22          adjusted gross income exceeds \$75,000.

23          “(e) SPECIAL RULES.—For purposes of this sec-  
24          tion—

1           “(1) PAYMENTS TO RELATED INDIVIDUALS.—  
2           Rules similar to the rules of section 21(e)(6) shall  
3           apply.

4           “(2) LICENSED HEALTH CARE PRACTI-  
5           TIONER.—

6           “(A) IN GENERAL.—The licensed health  
7           care practitioner making the certification for  
8           purposes of subsection (b)(1)(B)—

9                   “(i) shall not be related (within the  
10                   meaning of section 51(i)(1)) to the tax-  
11                   payer or the qualified care recipient, or  
12                   have a conflict of interest (as determined  
13                   under regulations provided by the Sec-  
14                   retary) with respect to the taxpayer or the  
15                   qualified care recipient,

16                   “(ii) shall be licensed and eligible  
17                   under applicable State law to certify limi-  
18                   tations in performing activities of daily liv-  
19                   ing, and

20                   “(iii) shall be a participant in the  
21                   Medicaid program, pursuant to sections  
22                   1902(a)(77) and 1932(d)(6) of the Social  
23                   Security Act, or the State Children’s  
24                   Health Insurance Program under section  
25                   2107(e)(1)(G) of such Act.

1 “(B) IDENTIFICATION REQUIREMENT.—

2 “(i) IN GENERAL.—No credit shall be  
3 allowed with respect to any qualified care  
4 recipient unless the taxpayer includes the  
5 name and specified provider identification  
6 number of such licensed health care practi-  
7 tioner on the return of tax for the taxable  
8 year.

9 “(ii) SPECIFIED PROVIDER IDENTI-  
10 FICATION NUMBER.—The term ‘specified  
11 provider identification number’ means a  
12 valid National Provider Identifier as au-  
13 thorized in section 1173 of the Social Se-  
14 curity Act.

15 “(3) INDIVIDUAL MAY NOT BE CLAIMED BY  
16 MORE THAN 1 TAXPAYER.—An individual shall be  
17 treated as a qualified care recipient with respect to  
18 only 1 taxpayer, as determined by the Secretary, for  
19 any taxable year.

20 “(4) IDENTIFICATION REQUIREMENT.—No  
21 credit shall be allowed with respect to any qualified  
22 care recipient unless the taxpayer includes the name  
23 and taxpayer identification number of the qualified  
24 care recipient on the return of tax for the taxable  
25 year.

1 “(f) TERMINATION.—No credit shall be allowed  
2 under this section for any taxable year beginning after De-  
3 cember 31, 2025.”.

4 (b) MATH ERROR AUTHORITY.—Section 6213(g)(2),  
5 as amended by the preceding provisions of this Act, is  
6 amended by striking “and” at the end of subparagraph  
7 (T), by striking the period at the end of subparagraph  
8 (U) and inserting “, and”, and by inserting after subpara-  
9 graph (U) the following new subparagraph:

10 “(V) an omission of a correct TIN re-  
11 quired under section 25E(e)(4) or a correct  
12 specified provider identification number re-  
13 quired under section 25E(e)(2)(B).”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 for subpart A of part IV of subchapter A of chapter 1  
16 is amended by inserting after the item relating to section  
17 25D the following new item:

“Sec. 25E. Credit for caregiver expenses.”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 December 31, 2021.

## 21 **PART 4—EARNED INCOME TAX CREDIT**

### 22 **SEC. 137401. CERTAIN IMPROVEMENTS TO THE EARNED IN-** 23 **COME TAX CREDIT MADE PERMANENT.**

24 (a) DECREASE IN MINIMUM AGE REQUIREMENT.—

1           (1) IN GENERAL.—Section 32(c)(1)(A)(ii)(II) is  
2           amended by striking “age 25” and inserting “the  
3           applicable minimum age”.

4           (2) APPLICABLE MINIMUM AGE.—Section 32(c)  
5           is amended by adding at the end the following new  
6           paragraph:

7           “(5) APPLICABLE MINIMUM AGE.—

8           “(A) IN GENERAL.—The term ‘applicable  
9           minimum age’ means—

10           “(i) except as otherwise provided in  
11           this subparagraph, age 19,

12           “(ii) in the case of a specified student  
13           (other than a qualified former foster youth  
14           or a qualified homeless youth), age 24, and

15           “(iii) in the case of a qualified former  
16           foster youth or a qualified homeless youth,  
17           age 18.

18           “(B) SPECIFIED STUDENT.—For purposes  
19           of this paragraph, the term ‘specified student’  
20           means, with respect to any taxable year, an in-  
21           dividual who is an eligible student (as defined  
22           in section 25A(b)(3)) during at least 5 calendar  
23           months during the taxable year.

24           “(C) QUALIFIED FORMER FOSTER  
25           YOUTH.—For purposes of this paragraph, the

1 term ‘qualified former foster youth’ means an  
2 individual who—

3 “(i) on or after the date that such in-  
4 dividual attained age 14, was in foster care  
5 provided under the supervision or adminis-  
6 tration of an entity administering (or eligi-  
7 ble to administer) a plan under part B or  
8 part E of title IV of the Social Security  
9 Act (without regard to whether Federal as-  
10 sistance was provided with respect to such  
11 child under such part E), and

12 “(ii) provides (in such manner as the  
13 Secretary may provide) consent for entities  
14 which administer a plan under part B or  
15 part E of title IV of the Social Security  
16 Act to disclose to the Secretary informa-  
17 tion related to the status of such individual  
18 as a qualified former foster youth.

19 “(D) QUALIFIED HOMELESS YOUTH.—For  
20 purposes of this paragraph, the term ‘qualified  
21 homeless youth’ means, with respect to any tax-  
22 able year, an individual who certifies, in a man-  
23 ner as provided by the Secretary, that such in-  
24 dividual is either an unaccompanied youth who  
25 is a homeless child or youth, or is unaccom-

1           panied, at risk of homelessness, and self-sup-  
2           porting.”.

3           (b) ELIMINATION OF MAXIMUM AGE FOR CREDIT.—  
4 Section 32(c)(1)(A)(ii)(II) is amended by striking “but  
5 not attained age 65”.

6           (c) INCREASE IN CREDIT AND PHASEOUT PERCENT-  
7 AGES.—The table contained in section 32(b)(1) is amend-  
8 ed by striking “7.65” each place it appears therein and  
9 inserting “15.3”.

10          (d) INCREASE IN EARNED INCOME AND PHASEOUT  
11 AMOUNTS.—

12           (1) IN GENERAL.—The table contained in sec-  
13 tion 32(b)(2)(A) is amended—

14                   (A) by striking “\$4,220” and inserting  
15                   “\$9,820”, and

16                   (B) by striking “\$5,280” and inserting  
17                   “\$11,610”.

18           (2) APPLICATION OF INFLATION ADJUST-  
19 MENT.—Section 32(j)(1) is amended—

20                   (A) by striking “(2021 in the case of the  
21                   dollar amount in subsection (i)(1))” and insert-  
22                   ing “(2021 in the case of the \$9,820 and  
23                   \$11,610 amounts in subsection (b)(2)(A) and  
24                   the \$10,000 amount in subsection (i)(1))”,

1 (B) in subparagraph (B)(i), by inserting  
2 “(other than the \$9,820 and \$11,610  
3 amounts)” after “subsection (b)(2)(A)”, and

4 (C) in subparagraph (B)(iii), by inserting  
5 “the \$9,820 and \$11,610 amounts in sub-  
6 section (b)(2)(A) and” before “the \$10,000  
7 amount in subsection (i)(1)”.

8 (e) Section 32, as amended by subsection (f), is  
9 amended by adding at the end the following new sub-  
10 section:

11 “(n) ELECTION TO DETERMINE EARNED INCOME  
12 BASED ON PRIOR TAXABLE YEAR.—

13 “(1) IN GENERAL.—In the case of a taxpayer  
14 whose earned income for any taxable year is less  
15 than the earned income of such taxpayer for the pre-  
16 ceding taxable year, if such taxpayer elects (at such  
17 time and in such manner as the Secretary may pro-  
18 vide) the application of this subsection for such tax-  
19 able year, the earned income of such taxpayer for  
20 such taxable year shall be treated for purposes of  
21 this section as being equal to the earned income of  
22 such taxpayer for such preceding taxable year.

23 “(2) JOINT RETURNS.—For purposes of this  
24 subsection, in the case of a joint return, the earned  
25 income of the taxpayer for the preceding taxable

1 year shall be the sum of the earned income of each  
2 spouse for the preceding taxable year.

3 “(3) TREATMENT AS MATHEMATICAL OR CLER-  
4 ICAL ERROR.—In the case of a taxpayer described in  
5 paragraph (1) who makes the election described in  
6 such paragraph, the use on the return for purposes  
7 of this section of an amount of earned income for  
8 the preceding taxable year which differs from the  
9 amount of such earned income as shown in the elec-  
10 tronic files of the Internal Revenue Service shall be  
11 treated as a mathematical or clerical error for pur-  
12 poses of section 6213.

13 “(4) TREATMENT OF REFERENCES.—Any pro-  
14 vision of this title which defines or determines  
15 earned income by reference to this section shall be  
16 applied without regard to this subsection unless such  
17 provision specifically provides otherwise.”.

18 (f) REPEAL OF TEMPORARY PROVISIONS.—Section  
19 32 is amended by striking subsection (n).

20 (g) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2021.

1 **SEC. 137402. FUNDS FOR ADMINISTRATION OF EARNED IN-**  
2 **COME TAX CREDITS IN THE TERRITORIES.**

3 (a) PUERTO RICO.—Section 7530(a)(1) is amended  
4 by striking “plus” at the end of subparagraph (A), by  
5 striking the period at the end of subparagraph (B) and  
6 inserting “, plus”, and by adding at the end the following  
7 new subparagraph:

8 “(C) reasonable administrative costs asso-  
9 ciated with the provision of the earned income  
10 tax credit not in excess of \$4,000,000.”.

11 (b) POSSESSIONS WITH MIRROR CODE TAX SYS-  
12 TEMS.—Section 7530(b)(1) is amended by striking “plus”  
13 at the end of subparagraph (A), by striking the period  
14 at the end of subparagraph (B) and inserting “, plus”,  
15 and by adding at the end the following new subparagraph:

16 “(C) reasonable administrative costs asso-  
17 ciated with the provision of the earned income  
18 tax credit not in excess of \$200,000.”.

19 (c) AMERICAN SAMOA.—Section 7530(c)(1) is  
20 amended by striking “plus” at the end of subparagraph  
21 (A), by striking the period at the end of subparagraph  
22 (B) and inserting “, plus”, and by adding at the end the  
23 following new subparagraph:

24 “(C) reasonable administrative costs asso-  
25 ciated with the provision of the earned income  
26 tax credit not in excess of \$200,000.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to payments made for calendar  
 3 years beginning after December 31, 2021.

4 **PART 5—EXPANDING ACCESS TO HEALTH**  
 5 **COVERAGE AND LOWERING COSTS**

6 **SEC. 137501. IMPROVE AFFORDABILITY AND REDUCE PRE-**  
 7 **MIUM COSTS OF HEALTH INSURANCE FOR**  
 8 **CONSUMERS.**

9 (a) INCREASE IN APPLICABLE PERCENTAGE MADE  
 10 PERMANENT.—Section 36B(b)(3)(A) is amended to read  
 11 as follows:

12 “(A) APPLICABLE PERCENTAGE.—The ap-  
 13 plicable percentage for any taxable year shall be  
 14 the percentage such that the applicable percent-  
 15 age for any taxpayer whose household income is  
 16 within an income tier specified in the following  
 17 table shall increase, on a sliding scale in a lin-  
 18 ear manner, from the initial premium percent-  
 19 age to the final premium percentage specified in  
 20 such table for such income tier:

“In the case of household income (expressed as a percent of poverty line) within the following income tier:	The initial premium percentage is—	The final premium percentage is—
Up to 150.0 percent .....	0	0
150.0 percent up to 200.0 percent .....	0	2
200.0 percent up to 250.0 percent .....	2	4
250.0 percent up to 300.0 percent .....	4	6
300.0 percent up to 400.0 percent .....	6	8.5
400.0 percent and higher .....	8.5	8.5”.

1 (b) CREDIT ALLOWED TO TAXPAYERS WHOSE  
2 HOUSEHOLD INCOME EXCEEDS 400 PERCENT OF THE  
3 POVERTY LINE.—

4 (1) IN GENERAL.—Section 36B(c)(1)(A) is  
5 amended by striking “but does not exceed 400 per-  
6 cent”.

7 (2) CONFORMING AMENDMENT.—Section  
8 36B(c)(1) is amended by striking subparagraph (E).

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years beginning after  
11 December 31, 2021.

12 **SEC. 137502. MODIFICATION OF EMPLOYER-SPONSORED**  
13 **COVERAGE AFFORDABILITY TEST IN HEALTH**  
14 **INSURANCE PREMIUM TAX CREDIT.**

15 (a) IN GENERAL.—Section 36B(c)(2)(C) is amend-  
16 ed—

17 (1) in clause (i)(II), by striking “9.5 percent”  
18 and inserting “8.5 percent”, and

19 (2) by striking clause (iv).

20 (b) QUALIFIED SMALL EMPLOYER HEALTH REIM-  
21 BURSEMENT ARRANGEMENTS.—Section 36B(c)(4) is  
22 amended—

23 (1) in subparagraph (C)(ii), by striking “9.5  
24 percent” and inserting “8.5 percent”, and

25 (2) by striking subparagraph (F).

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2021.

4 **SEC. 137503. TREATMENT OF LUMP-SUM SOCIAL SECURITY**  
5 **BENEFITS IN DETERMINING HOUSEHOLD IN-**  
6 **COME.**

7           (a) IN GENERAL.—Section 36B(d)(2) is amended by  
8 adding at the end the following new subparagraph:

9                   “(C) EXCLUSION OF PORTION OF LUMP-  
10                   SUM SOCIAL SECURITY BENEFITS.—

11                           “(i) IN GENERAL.—The term ‘modi-  
12                           fied adjusted gross income’ shall not in-  
13                           clude so much of any lump-sum social se-  
14                           curity benefit payment as is attributable to  
15                           months ending before the beginning of the  
16                           taxable year.

17                           “(ii) LUMP-SUM SOCIAL SECURITY  
18                           BENEFIT PAYMENT.—For purposes of this  
19                           subparagraph, the term ‘lump-sum social  
20                           security benefit payment’ means any pay-  
21                           ment of social security benefits (as defined  
22                           in section 86(d)(1)) which constitutes more  
23                           than 1 month of such benefits.

24                           “(iii) ELECTION TO INCLUDE EX-  
25                           CLUDABLE AMOUNT.—With respect to any

1 taxable year beginning on or after the ter-  
2 mination date (as defined in subsection  
3 (h)(2)), a taxpayer may elect (at such time  
4 and in such manner as the Secretary may  
5 provide) to have this subparagraph not  
6 apply for such taxable year.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2021.

10 **SEC. 137504. TEMPORARY EXPANSION OF HEALTH INSUR-**  
11 **ANCE PREMIUM TAX CREDITS FOR CERTAIN**  
12 **LOW-INCOME POPULATIONS.**

13 (a) IN GENERAL.—Section 36B is amended by redес-  
14 ignating subsection (h) as subsection (i) and by inserting  
15 after subsection (g) the following new subsection:

16 “(h) CERTAIN TEMPORARY RULES BEGINNING IN  
17 2022.—

18 “(1) IN GENERAL.—With respect to any taxable  
19 year beginning after December 31, 2021, and before  
20 the termination date—

21 “(A) ELIGIBILITY FOR CREDIT NOT LIM-  
22 ITED BASED ON INCOME.—Section  
23 36B(c)(1)(A) shall be disregarded in deter-  
24 mining whether a taxpayer is an applicable tax-  
25 payer.

1           “(B) CREDIT ALLOWED TO CERTAIN LOW-  
2 INCOME EMPLOYEES OFFERED EMPLOYER-PRO-  
3 VIDED COVERAGE.—Subclause (II) of sub-  
4 section (c)(2)(C)(i) shall not apply if the tax-  
5 payer’s household income does not exceed 138  
6 percent of the poverty line for a family of the  
7 size involved. Subclause (II) of subsection  
8 (c)(2)(C)(i) shall also not apply to an individual  
9 described in the last sentence of such subsection  
10 if the taxpayer’s household income does not ex-  
11 ceed 138 percent of the poverty line for a fam-  
12 ily of the size involved.

13           “(C) CREDIT ALLOWED TO CERTAIN LOW-  
14 INCOME EMPLOYEES OFFERED QUALIFIED  
15 SMALL EMPLOYER HEALTH REIMBURSEMENT  
16 ARRANGEMENTS.—A qualified small employer  
17 health reimbursement arrangement shall not be  
18 treated as constituting affordable coverage for  
19 an employee (or any spouse or dependent of  
20 such employee) for any months of a taxable  
21 year if the employee’s household income for  
22 such taxable year does not exceed 138 percent  
23 of the poverty line for a family of the size in-  
24 volved.

25           “(D) LIMITATIONS ON RECAPTURE.—

1           “(i) IN GENERAL.—In the case of a  
2 taxpayer whose household income is less  
3 than 200 percent of the poverty line for  
4 the size of the family involved for the tax-  
5 able year, the amount of the increase  
6 under subsection (f)(2)(A) shall in no  
7 event exceed \$300 (one-half of such  
8 amount in the case of a taxpayer whose  
9 tax is determined under section 1(c) for  
10 the taxable year).

11           “(ii) LIMITATION ON INCREASE FOR  
12 CERTAIN NON-FILERS.—In the case of any  
13 taxpayer who would not be required to file  
14 a return of tax for the taxable year but for  
15 any requirement to reconcile advance cred-  
16 it payments under subsection (f), if an Ex-  
17 change established under title I of the Pa-  
18 tient Protection and Affordable Care Act  
19 has determined that—

20           “(I) such taxpayer is eligible for  
21 advance payments under section 1412  
22 of such Act for any portion of such  
23 taxable year, and

24           “(II) such taxpayer’s household  
25 income for such taxable year is pro-

1                   jected to not exceed 138 percent of  
2                   the poverty line for a family of the  
3                   size involved,  
4                   subsection (f)(2)(A) shall not apply to such  
5                   taxpayer for such taxable year and such  
6                   taxpayer shall not be required to file such  
7                   return of tax.

8                   “(iii) INFORMATION PROVIDED BY EX-  
9                   CHANGE.—The information required to be  
10                  provided by an Exchange to the Secretary  
11                  and to the taxpayer under subsection (f)(3)  
12                  shall include such information as is nec-  
13                  essary to determine whether such Ex-  
14                  change has made the determinations de-  
15                  scribed in subclauses (I) and (II) of clause  
16                  (ii) with respect to such taxpayer.

17                  “(2) TERMINATION DATE.—For purposes of  
18                  this subsection, the term ‘termination date’ means  
19                  the later of—

20                         “(A) January 1, 2025, or

21                         “(B) the date on which the Secretary of  
22                         Health and Human Services makes a written  
23                         certification to the Secretary that the Secretary  
24                         of Health and Human Services has fully imple-  
25                         mented the program described in section 1948

1 of the Social Security Act (relating to Federal  
2 Medicaid program to close coverage gap in non-  
3 expansion States).”.

4 (b) EMPLOYER SHARED RESPONSIBILITY PROVISION  
5 NOT APPLICABLE WITH RESPECT TO CERTAIN LOW-IN-  
6 COME TAXPAYERS RECEIVING PREMIUM ASSISTANCE.—

7 Section 4980H(c)(3) is amended to read as follows:

8 “(3) APPLICABLE PREMIUM TAX CREDIT AND  
9 COST-SHARING REDUCTION.—

10 “(A) IN GENERAL.—The term ‘applicable  
11 premium tax credit and cost-sharing reduction’  
12 means—

13 “(i) any premium tax credit allowed  
14 under section 36B,

15 “(ii) any cost-sharing reduction under  
16 section 1402 of the Patient Protection and  
17 Affordable Care Act, and

18 “(iii) any advance payment of such  
19 credit or reduction under section 1412 of  
20 such Act.

21 “(B) EXCEPTION WITH RESPECT TO CER-  
22 TAIN LOW-INCOME TAXPAYERS.—Such term  
23 shall not include any premium tax credit, cost-  
24 sharing reduction, or advance payment other-  
25 wise described in subparagraph (A) if such

1 credit, reduction, or payment is allowed or paid  
2 for a taxable year of an employee (beginning  
3 after December 31, 2021, and before the termi-  
4 nation date, as defined in section 36B(h)(2))  
5 with respect to which—

6 “(i) an Exchange established under  
7 title I of the Patient Protection and Af-  
8 fordable Care Act has determined that  
9 such employee’s household income for such  
10 taxable year is projected to not exceed 138  
11 percent of the poverty line for a family of  
12 the size involved, or

13 “(ii) such employee’s household in-  
14 come for such taxable year does not exceed  
15 138 percent of the poverty line for a family  
16 of the size involved.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2021.

20 **SEC. 137505. ENSURING AFFORDABILITY OF COVERAGE**  
21 **FOR CERTAIN LOW-INCOME POPULATIONS.**

22 (a) REDUCING COST SHARING UNDER QUALIFIED  
23 HEALTH PLANS.—Section 1402 of the Patient Protection  
24 and Affordable Care Act (42 U.S.C. 18071) is amended—

25 (1) in subsection (b)—

1 (A) in paragraph (2), by inserting “(or,  
2 with respect to plan years 2023 and 2024,  
3 whose household income does not exceed 400  
4 percent of the poverty line for a family of the  
5 size involved)” before the period; and

6 (B) in the matter following paragraph (2),  
7 by adding at the end the following new sen-  
8 tence: “In the case of an individual with a  
9 household income of less than 138 percent of  
10 the poverty line for a family of the size involved  
11 for any month occurring during the period be-  
12 ginning on January 1, 2022, and ending on De-  
13 cember 31, 2022, such individual shall, for such  
14 month and for each succeeding month during  
15 such period, be treated as having household in-  
16 come equal to 100 percent for purposes of ap-  
17 plying this section.”; and

18 (2) in subsection (c)—

19 (A) in paragraph (1)(A), in the matter  
20 preceding clause (i), by inserting “, with respect  
21 to eligible insureds (other than, with respect to  
22 plan years 2023 and 2024, specified enrollees  
23 (as defined in paragraph (6)(C))),” after “first  
24 be achieved”;

1 (B) in paragraph (2), in the matter pre-  
2 ceding subparagraph (A), by inserting “with re-  
3 spect to eligible insureds (other than, with re-  
4 spect to plan years 2023 and 2024, specified  
5 enrollees)” after “under the plan”;

6 (C) in paragraph (3)—

7 (i) in subparagraph (A), by striking  
8 “this subsection” and inserting “paragraph  
9 (1) or (2)”; and

10 (ii) in subparagraph (B), by striking  
11 “this section” and inserting “paragraphs  
12 (1) and (2)”; and

13 (D) by adding at the end the following new  
14 paragraph:

15 “(6) SPECIAL RULE FOR SPECIFIED ENROLL-  
16 EES.—

17 “(A) IN GENERAL.—The Secretary shall  
18 establish procedures under which the issuer of  
19 a qualified health plan to which this section ap-  
20 plies shall reduce cost-sharing under the plan  
21 with respect to months occurring during plan  
22 years 2023 and 2024 for enrollees who are  
23 specified enrollees (as defined in subparagraph  
24 (C)) in a manner sufficient to increase the  
25 plan’s share of the total allowed costs of bene-

1 fits provided under the plan to 99 percent of  
2 such costs.

3 “(B) METHODS FOR REDUCING COST  
4 SHARING.—

5 “(i) IN GENERAL.—An issuer of a  
6 qualified health plan making reductions  
7 under this paragraph shall notify the Sec-  
8 retary of such reductions and the Sec-  
9 retary shall, out of funds made available  
10 under clause (ii), make periodic and timely  
11 payments to the issuer equal to 12 percent  
12 of the total allowed costs of benefits pro-  
13 vided under each such plan to specified en-  
14 rollees during plan years 2023 and 2024.

15 “(ii) APPROPRIATION.—There are ap-  
16 propriated, out of any monies in the Treas-  
17 ury not otherwise appropriated, such sums  
18 as may be necessary to the Secretary for  
19 purposes of making payments under clause  
20 (i).

21 “(C) SPECIFIED ENROLLEE DEFINED.—  
22 For purposes of this section, the term ‘specified  
23 enrollee’ means, with respect to a month occur-  
24 ring during a plan year, an eligible insured with  
25 a household income of less than 138 percent of

1 the poverty line for a family of the size involved  
2 during such month. Such insured shall be  
3 deemed to be a specified enrollee for each suc-  
4 ceeding month in such plan year.”.

5 (b) OPEN ENROLLMENTS APPLICABLE TO CERTAIN  
6 LOWER-INCOME POPULATIONS.—Section 1311(c) of the  
7 Patient Protection and Affordable Care Act (42 U.S.C.  
8 18031(c)) is amended—

9 (1) in paragraph (6)—

10 (A) in subparagraph (C), by striking at the  
11 end “and”;

12 (B) in subparagraph (D), by striking the  
13 period at the end and inserting “; and”; and

14 (C) by adding at the end the following new  
15 subparagraph:

16 “(E) with respect to a qualified health plan  
17 with respect to which section 1402 applies, for  
18 months occurring during the period beginning  
19 on January 1, 2022, and ending on December  
20 31, 2024, enrollment periods described in sub-  
21 paragraph (A) of paragraph (8) for individuals  
22 described in subparagraph (B) of such para-  
23 graph.”; and

24 (2) by adding at the end the following new  
25 paragraph:

1           “(8) SPECIAL ENROLLMENT PERIOD FOR CER-  
2 TAIN LOW-INCOME POPULATIONS.—

3           “(A) IN GENERAL.—The enrollment period  
4 described in this paragraph is, in the case of an  
5 individual described in subparagraph (B), the  
6 continuous period beginning on the first day  
7 that such individual is so described.

8           “(B) INDIVIDUAL DESCRIBED.—For pur-  
9 poses of subparagraph (A), an individual de-  
10 scribed in this subparagraph is an individual—

11           “(i) with a household income of less  
12 than 138 percent of the poverty line for a  
13 family of the size involved; and

14           “(ii) who is not eligible for minimum  
15 essential coverage (as defined in section  
16 5000A(f) of the Internal Revenue Code of  
17 1986), other than for coverage described in  
18 any of subparagraphs (B) through (E) of  
19 paragraph (1) of such section.”.

20           (c) ADDITIONAL BENEFITS FOR CERTAIN LOW-IN-  
21 COME INDIVIDUALS FOR PLAN YEAR 2024.—Section  
22 1301(a) of the Patient Protection and Affordable Care Act  
23 (42 U.S.C. 18021(a)) is amended—

24           (1) in paragraph (1)—

1 (A) in subparagraph (B), by striking  
2 “and” at the end;

3 (B) in subparagraph (C)(iv), by striking  
4 the period and inserting “; and”; and

5 (C) by adding at the end the following new  
6 subparagraph:

7 “(D) provides, with respect to a plan of-  
8 fered in the silver level of coverage to which sec-  
9 tion 1402 applies during plan year 2024, for  
10 benefits described in paragraph (5) in the case  
11 of an individual who, for a month during such  
12 plan year, has a household income of less than  
13 138 percent of the poverty line for a family of  
14 the size involved, and who is eligible to receive  
15 cost-sharing reductions under section 1402.”;  
16 and

17 (2) by adding at the end the following new  
18 paragraph:

19 “(5) ADDITIONAL BENEFITS FOR CERTAIN  
20 LOW-INCOME INDIVIDUALS FOR PLAN YEAR 2024.—

21 “(A) IN GENERAL.—For purposes of para-  
22 graph (1)(D), the benefits described in this  
23 paragraph to be provided by a qualified health  
24 plan are benefits consisting of non-emergency  
25 medical transportation services and services de-

1           scribed in subsection (a)(4)(C) of section 1905  
2           of the Social Security Act, without any restric-  
3           tion on the choice of a qualified provider from  
4           whom such an individual so enrolled in such  
5           plan may receive such services described in such  
6           subsection, and without any imposition of cost  
7           sharing, which are not otherwise provided under  
8           such plan as part of the essential health bene-  
9           fits package described in section 1302(a).

10           “(B) PAYMENTS FOR ADDITIONAL BENE-  
11           FITS.—

12           “(i) IN GENERAL.—An issuer of a  
13           qualified health plan making payments for  
14           services described in subparagraph (A) fur-  
15           nished to individuals described in para-  
16           graph (1)(D) during plan year 2024 shall  
17           notify the Secretary of such payments and  
18           the Secretary shall, out of funds made  
19           available under clause (ii), make periodic  
20           and timely payments to the issuer equal to  
21           payments for such services so furnished.

22           “(ii) APPROPRIATION.—There is ap-  
23           propriated, out of any monies in the Treas-  
24           ury not otherwise appropriated, such sums  
25           as may be necessary to the Secretary for

1                   purposes of making payments under clause  
2                   (i).”.

3           (d) EDUCATION AND OUTREACH ACTIVITIES.—

4           (1) IN GENERAL.—Section 1321(c) of the Pa-  
5           tient Protection and Affordable Care Act (42 U.S.C.  
6           18041(c)) is amended by adding at the end the fol-  
7           lowing new paragraph:

8           “(3) OUTREACH AND EDUCATIONAL ACTIVI-  
9           TIES.—

10           “(A) IN GENERAL.—In the case of an Ex-  
11           change established or operated by the Secretary  
12           within a State pursuant to this subsection, the  
13           Secretary shall carry out outreach and edu-  
14           cational activities for purposes of informing in-  
15           dividuals           described           in           section  
16           1902(a)(10)(A)(i)(VIII) of the Social Security  
17           Act who reside in States that have not ex-  
18           pended amounts under a State plan (or waiver  
19           of such plan) under title XIX of such Act for  
20           all such individuals about qualified health plans  
21           offered through the Exchange, including by in-  
22           forming such individuals of the availability of  
23           coverage under such plans and financial assist-  
24           ance for coverage under such plans. Such out-  
25           reach and educational activities shall be pro-

1           vided in a manner that is culturally and linguis-  
2           tically appropriate to the needs of the popu-  
3           lations being served by the Exchange (including  
4           hard-to-reach populations, such as racial and  
5           sexual minorities, limited English proficient  
6           populations, individuals residing in areas where  
7           the unemployment rates exceeds the national  
8           average unemployment rate, individuals in rural  
9           areas, veterans, and young adults).

10           “(B) LIMITATION ON USE OF FUNDS.—No  
11           funds appropriated under this paragraph shall  
12           be used for expenditures for promoting non-  
13           ACA compliant health insurance coverage.

14           “(C) NON-ACA COMPLIANT HEALTH INSUR-  
15           ANCE COVERAGE.—For purposes of subpara-  
16           graph (B):

17           “(i) The term ‘non-ACA compliant  
18           health insurance coverage’ means health  
19           insurance coverage, or a group health plan,  
20           that is not a qualified health plan.

21           “(ii) Such term includes the following:

22                   “(I) An association health plan.

23                   “(II) Short-term limited duration  
24           insurance.

1           “(D) FUNDING.—There are appropriated,  
2 out of any monies in the Treasury not other-  
3 wise appropriated, \$15,000,000 for fiscal year  
4 2022, and \$30,000,000 for each of fiscal years  
5 2023 and 2024, to carry out this paragraph.  
6 Funds appropriated under this subparagraph  
7 shall remain available until expended.”.

8           (2) NAVIGATOR PROGRAM.—Section 1311(i)(6)  
9 of the Patient Protection and Affordable Care Act  
10 (42 U.S.C. 18031(i)(6)) is amended—

11           (A) by striking “FUNDING.—Grants  
12 under” and inserting “FUNDING.—

13           “(A) STATE EXCHANGES.—Grants under”;  
14 and

15           (B) by adding at the end the following new  
16 subparagraph:

17           “(B) FEDERAL EXCHANGES.—For pur-  
18 poses of carrying out this subsection, with re-  
19 spect to an Exchange established and operated  
20 by the Secretary within a State pursuant to sec-  
21 tion 1321(c), the Secretary shall obligate  
22 \$10,000,000 out of amounts collected through  
23 the user fees on participating health insurance  
24 issuers pursuant to section 156.50 of title 45,  
25 Code of Federal Regulations (or any successor

1 regulations) for fiscal year 2022, and  
2 \$20,000,000 for each of fiscal years 2023 and  
3 2024. Such amount so obligated for a fiscal  
4 year shall remain available until expended.”.

5 **SEC. 137506. ESTABLISHING A HEALTH INSURANCE AF-**  
6 **FORDABILITY FUND.**

7 (a) IN GENERAL.—Subtitle D of title I of the Patient  
8 Protection and Affordable Care Act is amended by insert-  
9 ing after part 5 (42 U.S.C. 18061 et seq.) the following  
10 new part:

11 **“PART 6—IMPROVE HEALTH INSURANCE**  
12 **AFFORDABILITY FUND**

13 **“SEC. 1351. ESTABLISHMENT OF PROGRAM.**

14 “There is hereby established the ‘Improve Health In-  
15 surance Affordability Fund’ to be administered by the Sec-  
16 retary of Health and Human Services, acting through the  
17 Administrator of the Centers for Medicare & Medicaid  
18 Services (in this section referred to as the ‘Adminis-  
19 trator’), to provide funding, in accordance with this part,  
20 to the 50 States and the District of Columbia (each re-  
21 ferred to in this section as a ‘State’) beginning on January  
22 1, 2023, for the purposes described in section 1352.

1 **“SEC. 1352. USE OF FUNDS.**

2 “(a) IN GENERAL.—A State shall use the funds allo-  
3 cated to the State under this part for one of the following  
4 purposes:

5 “(1) To provide reinsurance payments to health  
6 insurance issuers with respect to individuals enrolled  
7 under individual health insurance coverage (other  
8 than through a plan described in subsection (b)) of-  
9 fered by such issuers.

10 “(2) To provide assistance (other than through  
11 payments described in paragraph (1)) to reduce out-  
12 of-pocket costs, such as copayments, coinsurance,  
13 premiums, and deductibles, of individuals enrolled  
14 under qualified health plans offered on the indi-  
15 vidual market through an Exchange and of individ-  
16 uals enrolled under standard health plans offered  
17 through a basic health program established under  
18 section 1331.

19 “(b) EXCLUSION OF CERTAIN GRANDFATHERED  
20 PLANS, TRANSITIONAL PLANS, STUDENT HEALTH  
21 PLANS, AND EXCEPTED BENEFITS.—For purposes of  
22 subsection (a), a plan described in this subsection is the  
23 following:

24 “(1) A grandfathered health plan (as defined in  
25 section 1251).



1 part for a year (beginning with 2023), a State shall  
2 submit to the Administrator an application at such  
3 time (but, in the case of allocations for 2023, not  
4 later than 120 days after the date of the enactment  
5 of this part and, in the case of allocations for a sub-  
6 sequent year, not later than January 1 of the pre-  
7 vious year) and in such form and manner as speci-  
8 fied by the Administrator containing—

9 “(A) a description of how the funds will be  
10 used; and

11 “(B) such other information as the Admin-  
12 istrator may require.

13 “(2) AUTOMATIC APPROVAL.—An application so  
14 submitted is approved (as outlined in the terms of  
15 the plan) unless the Administrator notifies the State  
16 submitting the application, not later than 90 days  
17 after the date of the submission of such application,  
18 that the application has been denied for not being in  
19 compliance with any requirement of this part and of  
20 the reason for such denial.

21 “(3) 5-YEAR APPLICATION APPROVAL.—If an  
22 application of a State is approved for a purpose de-  
23 scribed in section 1352 for a year, such application  
24 shall be treated as approved for such purpose for  
25 each of the subsequent 4 years.

1           “(4) OVERSIGHT AUTHORITY AND AUTHORITY  
2 TO REVOKE APPROVAL.—

3           “(A) OVERSIGHT.—The Secretary may  
4 conduct periodic reviews of the use of funds  
5 provided to a State under this section, with re-  
6 spect to a purpose described in section 1352, to  
7 ensure the State uses such funds for such pur-  
8 pose and otherwise complies with the require-  
9 ments of this section.

10           “(B) REVOCATION OF APPROVAL.—The  
11 approval of an application of a State, with re-  
12 spect to a purpose described in section 1352,  
13 may be revoked if the State fails to use funds  
14 provided to the State under this section for  
15 such purpose or otherwise fails to comply with  
16 the requirements of this section.

17           “(b) DEFAULT FEDERAL SAFEGUARD FOR 2023 AND  
18 2024 FOR CERTAIN STATES.—

19           “(1) IN GENERAL.—For 2023 and 2024, in the  
20 case of a State described in paragraph (5), with re-  
21 spect to such year, the State shall not be eligible to  
22 submit an application under subsection (a), and the  
23 Administrator, in consultation with the applicable  
24 State authority, shall from the amount calculated  
25 under paragraph (3) for such year, carry out the

1       purpose described in paragraph (2) in such State for  
2       such year.

3           “(2) SPECIFIED USE.—The amount described  
4       in paragraph (3), with respect to a State described  
5       in paragraph (5) for 2023 or 2024, shall be used to  
6       carry out the purpose described in section  
7       1352(a)(1) in such State for such year, as applica-  
8       ble, by providing reinsurance payments to health in-  
9       surance issuers with respect to attachment range  
10      claims (as defined in section 1354(b)(2), using the  
11      dollar amounts specified in subparagraph (B) of  
12      such section for such year) in an amount equal to,  
13      subject to paragraph (4), the percentage (specified  
14      for such year by the Secretary under such subpara-  
15      graph) of the amount of such claims.

16           “(3) AMOUNT DESCRIBED.—The amount de-  
17      scribed in this paragraph, with respect to 2023 or  
18      2024, is the amount equal to the total sum of  
19      amounts that the Secretary would otherwise esti-  
20      mate under section 1354(b)(2)(A)(i) for such year  
21      for each State described in paragraph (5) for such  
22      year, as applicable, if each such State were not so  
23      described for such year.

24           “(4) ADJUSTMENT.—For purposes of this sub-  
25      section, the Secretary may apply a percentage under

1 paragraph (3) with respect to a year that is less  
2 than the percentage otherwise specified in section  
3 1354(b)(2)(B) for such year, if the cost of paying  
4 the total eligible attachment range claims for States  
5 described in paragraph (5) for such year at such  
6 percentage otherwise specified would exceed the  
7 amount calculated under paragraph (3) for such  
8 year.

9 “(5) STATE DESCRIBED.—A State described in  
10 this paragraph, with respect to years 2023 and  
11 2024, is a State that, as of January 1 of 2022 or  
12 2023, respectively, was not expending amounts  
13 under the State plan (or waiver of such plan) for all  
14 individuals described in section  
15 1902(a)(10)(A)(i)(VIII) during such year.

16 **“SEC. 1354. ALLOCATIONS.**

17 “(a) APPROPRIATION.—For the purpose of providing  
18 allocations for States under subsection (b) and payments  
19 under section 1353(b) there is appropriated, out of any  
20 money in the Treasury not otherwise appropriated,  
21 \$10,000,000,000 for 2023 and each subsequent year.

22 “(b) ALLOCATIONS.—

23 “(1) PAYMENT.—

24 “(A) IN GENERAL.—From amounts appro-  
25 priated under subsection (a) for a year, the

1 Secretary shall, with respect to a State not de-  
2 scribed in section 1353(b) for such year and  
3 not later than the date specified under subpara-  
4 graph (B) for such year, allocate for such State  
5 the amount determined for such State and year  
6 under paragraph (2).

7 “(B) SPECIFIED DATE.—For purposes of  
8 subparagraph (A), the date specified in this  
9 subparagraph is—

10 “(i) for 2023, the date that is 90 days  
11 after the date of the enactment of this  
12 part; and

13 “(ii) for 2024 or a subsequent year,  
14 January 1 of the previous year.

15 “(C) NOTIFICATIONS OF ALLOCATION  
16 AMOUNTS.—For 2024 and each subsequent  
17 year, the Secretary shall notify each State of  
18 the amount determined for such State under  
19 paragraph (2) for such year by not later than  
20 January 1 of the previous year.

21 “(2) ALLOCATION AMOUNT DETERMINA-  
22 TIONS.—

23 “(A) IN GENERAL.—For purposes of para-  
24 graph (1), the amount determined under this  
25 paragraph for a year for a State described in

1 paragraph (1)(A) for such year is the amount  
2 equal to—

3 “(i) the amount that the Secretary es-  
4 timates would be expended under this part  
5 for such year on attachment range claims  
6 of individuals residing in such State if such  
7 State used such funds only for the purpose  
8 described in paragraph (1) of section  
9 1352(a) at the dollar amounts and per-  
10 centage specified under subparagraph (B)  
11 for such year; minus

12 “(ii) the amount, if any, by which the  
13 Secretary determines—

14 “(I) the estimated amount of  
15 premium tax credits under section  
16 36B of the Internal Revenue Code of  
17 1986 that would be attributable to in-  
18 dividuals residing in such State for  
19 such year without application of this  
20 part; exceeds

21 “(II) the estimated amount of  
22 premium tax credits under section  
23 36B of the Internal Revenue Code of  
24 1986 that would be attributable to in-  
25 dividuals residing in such State for

1                   such year if section 1353(b) applied  
2                   for such year and applied with respect  
3                   to such State for such year.

4           For purposes of the previous sentence and sec-  
5           tion 1353(b)(3), the term ‘attachment range  
6           claims’ means, with respect to an individual, the  
7           claims for such individual that exceed a dollar  
8           amount specified by the Secretary for a year,  
9           but do not exceed a ceiling dollar amount speci-  
10          fied by the Secretary for such year, under sub-  
11          paragraph (B).

12                   “(B) SPECIFICATIONS.—For purposes of  
13                   subparagraph (A) and section 1353(b)(3), the  
14                   Secretary shall determine the dollar amounts  
15                   and the percentage to be specified under this  
16                   subparagraph for a year in a manner to ensure  
17                   that the total amount of expenditures under  
18                   this part for such year is estimated to equal the  
19                   total amount appropriated for such year under  
20                   subsection (a) if such expenditures were used  
21                   solely for the purpose described in paragraph  
22                   (1) of section 1352(a) for attachment range  
23                   claims at the dollar amounts and percentage so  
24                   specified for such year.

1           “(3) AVAILABILITY.—Funds allocated to a  
2           State under this subsection for a year shall remain  
3           available through the end of the subsequent year.”.

4           (b) BASIC HEALTH PROGRAM FUNDING ADJUST-  
5           MENTS.—Section 1331 of the Patient Protection and Af-  
6           fordable Care Act (42 U.S.C. 18051) is amended—

7           (1) in subsection (a), by adding at the end the  
8           following new paragraph:

9           “(3) PROVISION OF INFORMATION ON QUALI-  
10          FIED HEALTH PLAN PREMIUMS.—

11           “(A) IN GENERAL.—For plan years begin-  
12          ning on or after January 1, 2023, the program  
13          described in paragraph (1) shall provide that a  
14          State may not establish a basic health program  
15          unless such State furnishes to the Secretary,  
16          with respect to each qualified health plan of-  
17          fered in such State during a year that receives  
18          any reinsurance payment from funds made  
19          available under part 6 for such year, the ad-  
20          justed premium amount (as defined in subpara-  
21          graph (B)) for each such plan and year.

22           “(B) ADJUSTED PREMIUM AMOUNT DE-  
23          FINED.—For purposes of subparagraph (A), the  
24          term ‘adjusted premium amount’ means, with  
25          respect to a qualified health plan and a year,

1 the monthly premium for such plan and year  
2 that would have applied had such plan not re-  
3 ceived any payments described in subparagraph  
4 (A) for such year.”; and

5 (2) in subsection (d)(3)(A)(ii), by adding at the  
6 end the following new sentence: “In making such de-  
7 termination, the Secretary shall calculate the value  
8 of such premium tax credits that would have been  
9 provided to such individuals enrolled through a basic  
10 health program established by a State during a year  
11 using the adjusted premium amounts (as defined in  
12 subsection (a)(3)(B)) for qualified health plans of-  
13 fered in such State during such year.”.

14 **SEC. 137507. SPECIAL RULE FOR INDIVIDUALS RECEIVING**  
15 **UNEMPLOYMENT COMPENSATION.**

16 (a) **EXTENSION.**—Section 36B(g)(1) is amended by  
17 striking “during 2021,” and inserting “after December  
18 31, 2020, and before January 1, 2026,”.

19 (b) **MODIFICATION OF INCOME NOT TAKEN INTO AC-**  
20 **COUNT.**—Section 36B(g)(1)(B) is amended by striking  
21 “133 percent” and inserting “150 percent”.

22 (c) **CONFORMING AMENDMENT.**—Section 36B(g) by  
23 inserting “THROUGH 2025” after “2021” in the heading  
24 thereof.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2021.

4 **SEC. 137508. PERMANENT CREDIT FOR HEALTH INSURANCE**  
5 **COSTS.**

6 (a) IN GENERAL.—Subparagraph (B) of section  
7 35(b)(1) of the Internal Revenue Code of 1986 is amended  
8 by striking “, and before January 1, 2022” and inserting  
9 a period.

10 (b) INCREASE IN CREDIT PERCENTAGE.—Subsection  
11 (a) of section 35 of the Internal Revenue Code of 1986  
12 is amended by striking “72.5 percent” and inserting “80  
13 percent”.

14 (c) CONFORMING AMENDMENTS.—Subsections (b)  
15 and (e)(1) of section 7527 of the Internal Revenue Code  
16 of 1986 are each amended by striking “72.5 percent” and  
17 inserting “80 percent”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to coverage months beginning after  
20 December 31, 2021.



1 “(1) attests he or she—

2 “(A) is or will be a first-generation student  
3 of a 4-year college, graduate school, or profes-  
4 sional school;

5 “(B) was a Pell Grant recipient; or

6 “(C) lived in a medically underserved area,  
7 rural area, or health professional shortage area  
8 for a period of 4 or more years prior to attend-  
9 ing an undergraduate program;

10 “(2) has accepted enrollment in—

11 “(A) a post-baccalaureate program that is  
12 not more than 2 years and intends to enroll in  
13 a qualifying medical school within 2 years after  
14 completion of such program; or

15 “(B) a qualifying medical school;

16 “(3) will practice medicine in a health profes-  
17 sional shortage area, medically underserved area,  
18 public hospital, rural area, or as required under sub-  
19 section (d)(5); and

20 “(4) submits an application and a signed copy  
21 of the agreement described under subsection (c).

22 “(c) APPLICATIONS.—

23 “(1) IN GENERAL.—To be eligible to receive a  
24 Pathway to Practice medical scholarship voucher  
25 under this section, a qualifying student described in

1 subsection (b) shall submit to the Secretary an ap-  
2 plication at such time, in such manner, and con-  
3 taining such information as the Secretary may re-  
4 quire.

5 “(2) INFORMATION TO BE INCLUDED.—As a  
6 part of the application described in paragraph (1),  
7 the Secretary shall include a notice of the items  
8 which are required to be agreed to under subsection  
9 (d)(4) for the purpose of notifying the qualifying  
10 student of the terms of the Rural and Underserved  
11 Pathway to Practice Training Program.

12 “(d) PATHWAY TO PRACTICE MEDICAL SCHOLAR-  
13 SHIP VOUCHER DETAILS.—

14 “(1) NUMBER.—On an annual basis, the Sec-  
15 retary may award a Pathway to Practice medical  
16 scholarship voucher under the Program to not more  
17 than 1,000 qualifying students described in sub-  
18 section (b).

19 “(2) PRIORITIZATION CRITERIA.—In deter-  
20 mining whether to award a Pathway to Practice  
21 medical scholarship voucher under the Program to  
22 qualifying students described in subsection (b), the  
23 Secretary shall prioritize applications from any such  
24 student who attests that he or she—

1           “(A) was a participant in the Health Re-  
2           sources and Services Administration Health Ca-  
3           reers Opportunity Program or an Area Health  
4           Education Center scholar;

5           “(B) is a disadvantaged student (as de-  
6           fined by the National Health Service Corps of  
7           the Health Resources & Services Administration  
8           of the Department of Health and Human Serv-  
9           ices); or

10           “(C) attended a historically black college  
11           or other minority serving institution (as defined  
12           in section 1067q of title 20, United States  
13           Code).

14           “(3) DURATION.—Each Pathway to Practice  
15           medical scholarship voucher awarded to a qualifying  
16           student pursuant to paragraph (1) shall be so  
17           awarded to such a student on an annual basis for  
18           each year of enrollment in a post-baccalaureate pro-  
19           gram and a qualifying medical school (as appro-  
20           priate).

21           “(4) AMOUNT.—Subject to paragraph (5), each  
22           Pathway to Practice medical scholarship voucher  
23           awarded under the Program shall include amounts  
24           for—

25           “(A) tuition;

1           “(B) academic fees (as determined by the  
2           qualifying medical school);

3           “(C) required textbooks and equipment;

4           “(D) a monthly stipend equal to the  
5           amount provided for individuals under the  
6           health professions scholarship and financial as-  
7           sistance program described in section 2121(c)  
8           of title 10, United States Code; and

9           “(E) any other educational expenses nor-  
10          mally incurred by students at the post-bacca-  
11          laureate program or qualifying medical school  
12          (as appropriate).

13          “(5) REQUIRED AGREEMENT.—No amounts  
14          under paragraph (4) may be provided a qualifying  
15          student awarded a Pathway to Practice medical  
16          scholarship voucher under the Program, unless the  
17          qualifying student submits to the Secretary an  
18          agreement to—

19                 “(A) complete a post-baccalaureate pro-  
20                 gram that is not more than 2 years (if applica-  
21                 ble pursuant to the option under subsection  
22                 (b)(2)(A));

23                 “(B) graduate from a qualifying medical  
24                 school;

1           “(C) complete a residency program in an  
2 approved residency training program (as de-  
3 fined in section 1886(h)(5)(A));

4           “(D) complete an initial residency period  
5 or the period of board eligibility;

6           “(E) practice medicine for at least the  
7 number of years of the Pathway to Practice  
8 medical scholarship voucher awarded under  
9 paragraph (2) after a residency program in a  
10 health professional shortage area, a medically  
11 underserved area, a public hospital, or a rural  
12 area, and during such period annually submit  
13 documentation with respect to whether the  
14 qualifying student practices medicine in such an  
15 area and where;

16           “(F) for the purpose of determining com-  
17 pliance with subparagraph (E), not later than  
18 180 days after the date on which qualifying stu-  
19 dent completes a residency program, provide to  
20 the Secretary information with respect to where  
21 the qualifying student is practicing medicine  
22 following the period described in such subpara-  
23 graph;

24           “(G) except in the case of a waiver for  
25 hardship pursuant to section 1892(f)(3), be lia-

1 ble to the United States pursuant to section  
2 1892 for any amounts received under this Pro-  
3 gram that is determined a past-due obligation  
4 under subsection (b)(3) of such section in the  
5 case qualifying student fails to complete all of  
6 the requirements of this agreement under this  
7 subsection; and

8 “(H) for the purpose of determining the  
9 amount of Pathway to Practice medical scholar-  
10 ship vouchers paid or incurred by a qualifying  
11 medical school or any provider of a post-bacca-  
12 laurate program referred to in subsection  
13 (b)(2)(A) for the costs of tuition under para-  
14 graph (4)(A), consent to any personally identi-  
15 fying information being shared with the Sec-  
16 retary of the Treasury.

17 “(6) RESPONSIBILITIES OF PARTICIPATING  
18 EDUCATIONAL INSTITUTIONS.—Each annual award  
19 of an amount of Pathway to Practice medical schol-  
20 arship voucher under paragraph (2) shall be made  
21 with respect to a specific qualifying medical school  
22 or post-baccalaureate program that is not more than  
23 2 years and such school or program shall (as a con-  
24 dition of, and prior to, such award being made with  
25 respect to such school or program)—

1           “(A) submit to the Secretary such infor-  
2           mation as the Secretary may require to deter-  
3           mine the amount of such award on the basis of  
4           the costs of the costs of the items specified  
5           under paragraph (4) (except for subparagraph  
6           (D)) with respect to such school or program,  
7           and

8           “(B) enter into an agreement with the Sec-  
9           retary under which such school or provider will  
10          verify (in such manner as the Secretary may  
11          provide) that amounts paid by such school or  
12          provider to the qualifying student are used for  
13          such costs.

14          “(e) DEFINITIONS.—In this section:

15                 “(1) HEALTH PROFESSIONAL SHORTAGE  
16                 AREA.—The term ‘health professional shortage area’  
17                 has the meaning given such term in subparagraphs  
18                 (A) or (B) of section 332(a)(1) of the Public Health  
19                 Service Act.

20                 “(2) INITIAL RESIDENCY PERIOD.—The term  
21                 ‘initial residency period’ has the meaning given such  
22                 term in section 1886(h)(5)(F).

23                 “(3) MEDICALLY UNDERSERVED AREA.—The  
24                 term ‘medically underserved area’ means an area

1 designated pursuant to section 330(b)(3)(A) of the  
2 Public Health Service Act.

3 “(4) PELL GRANT RECIPIENT.—The term ‘Pell  
4 Grant recipient’ has the meaning given such term in  
5 section 322(3) of the Higher Education Act of 1965.

6 “(5) PERIOD OF BOARD ELIGIBILITY.—The  
7 term ‘period of board eligibility’ has the meaning  
8 given such term in section 1886(h)(5)(G).

9 “(6) QUALIFYING MEDICAL SCHOOL.—The term  
10 ‘qualifying medical school’ means a school of medi-  
11 cine accredited by the Liaison Committee on Medical  
12 Education of the American Medical Association and  
13 the Association of American Medical Colleges (or ap-  
14 proved by such Committee as meeting the standards  
15 necessary for such accreditation) or a school of oste-  
16 opathy accredited by the American Osteopathic As-  
17 sociation, or approved by such Association as meet-  
18 ing the standards necessary for such accreditation  
19 which—

20 “(A) for each academic year, enrolls at  
21 least 10 qualifying students who are in enrolled  
22 in such a school;

23 “(B) requires qualifying students to enroll  
24 in didactic coursework and clinical experience  
25 applicable to practicing medicine in health pro-

1           fessional shortage areas, medically underserved  
2           areas, or rural areas, including—

3                   “(i) clinical rotations in such areas in  
4                   applicable specialties (as applicable and as  
5                   available);

6                   “(ii) coursework or training experi-  
7                   ences focused on medical issues prevalent  
8                   in such areas and cultural and structural  
9                   competency; and

10                   “(C) is located in a State (as defined in  
11                   section 210(h)).

12                   “(7) RURAL AREA.—The term ‘rural area’ has  
13                   the meaning given such term in section  
14                   1886(d)(2)(D).

15                   “(f) PENALTY FOR FALSE INFORMATION.—Any per-  
16                   son who knowingly and willfully obtains by fraud, false  
17                   statement, or forgery, or fails to refund any funds, assets,  
18                   or property provided under this section or attempts to so  
19                   obtain by fraud, false statement or forgery, or fail to re-  
20                   fund any funds, assets, or property, received pursuant to  
21                   this section shall be fined not more than \$20,000 or im-  
22                   prisoned for not more than 5 years, or both.”.

23                   (2) AGREEMENTS.—Section 1892 of the Social  
24                   Security Act (42 U.S.C. 1395ccc) is amended—

25                   (A) in subsection (a)(1)(A)—

1 (i) by striking “, or the” and inserting  
2 “, the”; and

3 (ii) by inserting “or the Rural and  
4 Underserved Pathway to Practice Training  
5 Program for Post- Baccalaureate and Med-  
6 ical Students under section 1899C” before  
7 “, owes a past-due obligation”;

8 (B) in subsection (b)—

9 (i) in paragraph (1), by striking at  
10 the end “or”;

11 (ii) in paragraph (2), by striking the  
12 period at the end and inserting “; or”; and

13 (iii) by adding the end the following  
14 new paragraph:

15 “(3) subject to subsection (f), owed by an indi-  
16 vidual to the United States by breach of an agree-  
17 ment under section 1899C(c) and which payment  
18 has not been paid by the individual for any amounts  
19 received under the Rural and Underserved Pathway  
20 to Practice Training Program for Post-Bacca-  
21 laureate and Medical Students (and accrued interest  
22 determined in accordance with subsection (f)(4)) in  
23 the case such individual fails to complete the re-  
24 quirements of such agreement.”; and

1 (C) by adding at the end the following new  
2 subsection:

3 “(f) AUTHORITIES WITH RESPECT TO THE COLLEC-  
4 TION UNDER THE PATHWAY TO PRACTICE TRAINING  
5 PROGRAM.—The Secretary—

6 “(1) shall require payment to the United States  
7 for any amount of damages that the United States  
8 is entitled to recover under subsection (b)(3), within  
9 the 5-year period beginning on the date an eligible  
10 individual fails to complete the requirements of such  
11 agreement under section 1899C(d)(5) (or such  
12 longer period beginning on such date as specified by  
13 the Secretary), and any such amounts not paid with-  
14 in such period shall be subject to collection through  
15 deductions in Medicare payments pursuant to sub-  
16 section (e);

17 “(2) may allow payments described in para-  
18 graph (1) to be paid in installments over such 5-year  
19 period, which shall accrue interest in an amount de-  
20 termined pursuant to paragraph (5);

21 “(3) may waive the requirement for an indi-  
22 vidual to pay a past-due obligation under subsection  
23 (b)(3) in the case of hardship (as determined by the  
24 Secretary);



1 is amended by inserting after section 36F the following  
2 new section:

3 **“SEC. 36G. PATHWAY TO PRACTICE MEDICAL SCHOLAR-**  
4 **SHIP VOUCHER CREDIT.**

5 “(a) IN GENERAL.—In the case of a qualified edu-  
6 cational institution, there shall be allowed as a credit  
7 against the tax imposed by this subtitle for any taxable  
8 year an amount equal to the aggregate amount paid or  
9 incurred by such institution during such taxable year pur-  
10 suant to any Pathway to Practice medical scholarship  
11 voucher awarded to a qualifying student with respect to  
12 such institution.

13 “(b) DETERMINATION OF AMOUNTS PAID PURSUANT  
14 TO QUALIFIED SCHOLARSHIP VOUCHERS, ETC.—For pur-  
15 poses of this section—

16 “(1) an amount shall be treated as paid or in-  
17 curred pursuant to an annual award of a Pathway  
18 to Practice medical scholarship voucher only if such  
19 amount is paid or incurred in reimbursement, or an-  
20 ticipation of, an expense described in subparagraphs  
21 (A) through (E) of paragraph (4) of section  
22 1899C(d) of the Social Security Act and is subject  
23 to verification in such manner as the Secretary of  
24 Health and Human Services may provide under  
25 paragraph (6) of such section, and

1           “(2) in the case of any amount credited by a  
2           qualified educational institution against a liability  
3           owed by the qualifying student to such institution,  
4           such amount shall be treated as paid by such insti-  
5           tution to such student as of the date that such liabil-  
6           ity would otherwise be due.

7           “(c) DEFINITIONS.—For purposes of this section—

8           “(1) QUALIFIED EDUCATIONAL INSTITUTION.—  
9           The term ‘qualified educational institution’ means,  
10          with respect to any annual award of a Pathway to  
11          Practice medical scholarship voucher—

12                   “(A) any qualifying medical school (as de-  
13                   fined in subsection (e)(6) of section 1899C of  
14                   the Social Security Act), and

15                   “(B) any provider of a post-baccalaureate  
16                   program referred to in subsection (b)(2)(A) of  
17                   such section,

18          which meets the requirements of subsection (d)(6) of  
19          such section.

20           “(2) QUALIFYING STUDENT.—The term ‘quali-  
21           fying student’ means any student to whom the Sec-  
22           retary of Health and Human Services has made an  
23           annual award of a Pathway to Practice medical  
24           scholarship voucher under section 1899C of the So-  
25           cial Security Act.

1           “(3) ANNUAL AWARD OF A PATHWAY TO PRAC-  
2           TICE MEDICAL SCHOLARSHIP VOUCHER.—The term  
3           ‘annual award of a Pathway to Practice medical  
4           scholarship voucher’ means the annual award of a  
5           Pathway to Practice medical scholarship voucher re-  
6           ferred to in section 1899C(d)(3) of the Social Secu-  
7           rity Act.

8           “(d) COORDINATION OF ACADEMIC AND TAXABLE  
9           YEARS.—The credit allowed under subsection (a) with re-  
10          spect to any Pathway to Practice medical scholarship  
11          voucher shall not exceed the amount of such voucher which  
12          is for expenses described in subparagraphs (A) through  
13          (E) of section 1899C(d)(4) of the Social Security Act, re-  
14          duced by any amount of such voucher with respect to  
15          which credit was allowed under this section for any prior  
16          taxable year.

17          “(e) REGULATIONS.—The Secretary shall issue such  
18          regulations or other guidance as are necessary or appro-  
19          priate to carry out the purposes of this section.”.

20          (b) CONFORMING AMENDMENTS.—

21                 (1) Section 6211(b)(4)(A), as amended by the  
22                 preceding provisions of this Act, is amended by in-  
23                 serting “36G,” after “36F,”.

24                 (2) Paragraph (2) of section 1324(b) of title  
25                 31, United States Code, as amended by the pre-

1 ceding provisions of this Act, is amended by insert-  
2 ing “36G,” after “36F,”.

3 (3) The table of sections for subpart C of part  
4 IV of subchapter A of chapter 1 of the Internal Rev-  
5 enue Code of 1986, and amended by the preceding  
6 provisions of this Act, is amended by inserting after  
7 the item relating to section 36F the following new  
8 item:

“Sec. 36G. Pathway to Practice medical scholarship voucher credit.”.

9 (c) INFORMATION SHARING.—The Secretary of  
10 Health and Human Services shall annually provide the  
11 Secretary of the Treasury such information regarding the  
12 program under section 1899C of the Social Security Act  
13 as the Secretary of the Treasury may require to admin-  
14 ister the tax credits determined under section 36G of the  
15 Internal Revenue Code of 1986, including information to  
16 identify qualifying students and the qualified educational  
17 institutions at which such students are enrolled and the  
18 amount of the annual award of the Pathway to Practice  
19 medical scholarship voucher awarded to each such student  
20 with respect to such institution. Terms used in this sub-  
21 paragraph shall have the same meaning as when used in  
22 such section 36G.

23 (d) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years ending after the  
25 date of the enactment of this Act.

1 **SEC. 137603. ESTABLISHING RURAL AND UNDERSERVED**  
2 **PATHWAY TO PRACTICE TRAINING PRO-**  
3 **GRAMS FOR MEDICAL RESIDENTS.**

4 Section 1886 of the Social Security Act (42 U.S.C.  
5 1395ww) is amended—

6 (1) in subsection (d)(5)(B)(v), by inserting  
7 “(h)(4)(H)(vii),” after “The provisions of sub-  
8 sections (h)(4)(H)(vi),”; and

9 (2) in subsection (h)(4)(H), by adding at the  
10 end the following new clause:

11 “(vii) INCREASE IN FULL-TIME EQUIV-  
12 ALENT LIMITATION FOR HOSPITALS IMPL-  
13 MENTING PATHWAY TRAINING PRO-  
14 GRAMS.—

15 “(I) IN GENERAL.—For cost re-  
16 porting periods beginning on or after  
17 October 1, 2026, during which a resi-  
18 dent trains in an applicable hospital  
19 or hospitals (as defined in subclause  
20 (II) in an approved medical residency  
21 training program), the Secretary  
22 shall, after any adjustment made  
23 under any preceding provision of this  
24 paragraph or under any of paragraphs  
25 (7) through (9), subject to subclause  
26 (III), increase the limitation under

1           subparagraph (F) for such cost re-  
2           porting period by the number of full-  
3           time equivalent residents so trained  
4           under such program during such pe-  
5           riod (in this clause, referred to as the  
6           ‘Rural and Underserved Pathway to  
7           Practice Training Programs for Med-  
8           ical Residents’ or ‘Program’).

9                           “(II) APPLICABLE HOSPITAL OR  
10                          HOSPITALS DEFINED.—For purposes  
11                          of this clause, the term ‘applicable  
12                          hospital or hospitals’ means any hos-  
13                          pital that has been recognized by the  
14                          Accreditation Council for Graduate  
15                          Medical Education as meeting at least  
16                          the following requirements for their  
17                          approved medical residency training  
18                          programs:

19   “(aa) The programs provide  
20   mentorships for residents.

21   “(bb) The programs include  
22   cultural and structural com-  
23   petency as part of the training of  
24   residents under the programs.

1           “(cc) The programs have a  
2           demonstrated record of training  
3           medical residents in medically  
4           underserved areas, rural areas, or  
5           health professional shortage  
6           areas.

7           “(dd) The hospital agrees to  
8           promote community-based train-  
9           ing of residents under their pro-  
10          grams, as appropriate.

11          “(III) ANNUAL LIMITATION FOR  
12          NUMBER OF RESIDENTS IN PRO-  
13          GRAM.—The Secretary shall ensure  
14          that, during any 1-year period and  
15          across all approved medical residency  
16          training programs described in sub-  
17          clause (I), not more than 1,000 full-  
18          time equivalent residents are trained  
19          each year.

20          “(IV) OTHER DEFINITIONS.—

21                 “(aa) HEALTH PROFES-  
22                 SIONAL SHORTAGE AREA.—The  
23                 team ‘health professional short-  
24                 age area’ has the meaning given  
25                 such term in subparagraphs (A)

1 or (B) of section 332(a)(1) of the  
2 Public Health Service Act.

3 “(bb) MEDICAL UNDER-  
4 SERVED AREA.—The term ‘medi-  
5 cally underserved area’ means an  
6 area designated pursuant to sec-  
7 tion 330(b)(3)(A) of the Public  
8 Health Service Act.

9 “(cc) QUALIFYING MEDICAL  
10 SCHOOL.—The term ‘qualifying  
11 medical school’ has the meaning  
12 given such term in section  
13 1899C(e)(6).

14 “(dd) QUALIFYING MEDICAL  
15 STUDENT.—The term ‘qualifying  
16 medical student’ has the meaning  
17 given such term in section  
18 1899C(b).

19 “(ee) RURAL AREA.—The  
20 term ‘rural area’ has the mean-  
21 ing given such term in section  
22 1886(d)(2)(D).”.

1 **SEC. 137604. ADMINISTRATIVE FUNDING OF THE RURAL**  
2 **AND UNDERSERVED PATHWAY TO PRACTICE**  
3 **TRAINING PROGRAMS FOR POST-BACCA-**  
4 **LAUREATE STUDENTS, MEDICAL STUDENTS,**  
5 **AND MEDICAL RESIDENTS.**

6 The Secretary shall provide for the transfer of  
7 \$6,000,000 from the Hospital Insurance Trust Fund es-  
8 tablished under section 1817 of the Social Security Act  
9 (42 U.S.C. 1395i) and the Federal Supplementary Med-  
10 ical Insurance Trust Fund under section 1841 of such Act  
11 (42 U.S.C. 1395t), in addition to amounts otherwise avail-  
12 able to remain available until expended, to carry out the  
13 administration of the Rural and Underserved Pathway to  
14 Practice Training Program for Post-Baccalaureate and  
15 Medical Students under section 1899C of such Act (42  
16 U.S.C. 1395mmm) and the Rural and Underserved Path-  
17 way to Practice Training Programs for Medical Residents  
18 under section 1886(h)(4)(H)(vii) of such Act (42 U.S.C.  
19 1395ww(h)(4)(H)(vii)).

20 **PART 7—HIGHER EDUCATION**

21 **SEC. 137701. CREDIT FOR PUBLIC UNIVERSITY RESEARCH**  
22 **INFRASTRUCTURE.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-  
24 chapter A of chapter 1, as amended by the preceding pro-  
25 visions of this Act, is amended by adding at the end the  
26 following new section:

1 **“SEC. 45AA. PUBLIC UNIVERSITY RESEARCH INFRASTRUC-**  
2 **TURE CREDIT.**

3 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
4 tion 38, the public university research infrastructure cred-  
5 it determined under this section for a taxable year is an  
6 amount equal to 40 percent of the qualified cash contribu-  
7 tions made by a taxpayer during such taxable year.

8 “(b) QUALIFIED CASH CONTRIBUTION.—

9 “(1) IN GENERAL.—

10 “(A) DEFINED.—For purposes of sub-  
11 section (a), the qualified cash contribution for  
12 any taxable year is the aggregate amount con-  
13 tributed in cash by a taxpayer during such tax-  
14 able year to a certified educational institution  
15 in connection with a qualifying project that, but  
16 for this section, would be treated as a charitable  
17 contribution for purposes of section 170(c).

18 “(B) QUALIFIED CASH CONTRIBUTIONS  
19 TAKEN INTO ACCOUNT FOR PURPOSES OF  
20 CHARITABLE CONTRIBUTION LIMITATIONS.—

21 Any qualified cash contributions made by a tax-  
22 payer under this section shall be taken into ac-  
23 count for purposes of determining the percent-  
24 age limitations under section 170(b).

25 “(2) DESIGNATION REQUIRED.—A contribution  
26 shall only be treated as a qualified cash contribution

1 to the extent that it is designated as such by a cer-  
2 tified educational institution under subsection (d).

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFYING PROJECT.—The term ‘quali-  
5 fying project’ means a project to purchase, con-  
6 struct, or improve research infrastructure property.

7 “(2) RESEARCH INFRASTRUCTURE PROP-  
8 erty.—The term ‘research infrastructure property’  
9 means any portion of a property, building, or struc-  
10 ture of an eligible educational institution, or any  
11 land associated with such property, building, or  
12 structure, that is used for research.

13 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—  
14 The term ‘eligible educational institution’ means—

15 “(A) an institution of higher education (as  
16 such term is defined in section 101 or 102(c)  
17 of the Higher Education Act of 1965) that is  
18 a college or university described in section  
19 511(a)(2)(B), or

20 “(B) an organization described in section  
21 170(b)(1)(A)(iv) or section 509(a)(3) to which  
22 authority has been delegated by an institution  
23 described in subparagraph (A) for purposes of  
24 applying for or administering credit amounts on  
25 behalf of such institution.

1           “(4) CERTIFIED EDUCATIONAL INSTITUTION.—

2           The term ‘certified educational institution’ means an  
3           eligible educational institution which has been allo-  
4           cated a credit amount for a qualifying project and—

5                   “(A) has received a certification for such  
6           project under subsection (d)(2), and

7                   “(B) designates credit amounts to tax-  
8           payers for qualifying cash contributions toward  
9           such project under subsection (d)(4).

10          “(d) QUALIFYING UNIVERSITY RESEARCH INFRA-  
11       STRUCTURE PROGRAM.—

12           “(1) ESTABLISHMENT.—

13                   “(A) IN GENERAL.—Not later than 180  
14           days after the date of the enactment of this sec-  
15           tion, the Secretary, after consultation with the  
16           Secretary of Education, shall establish a pro-  
17           gram to—

18                           “(i) certify and allocate credit  
19           amounts for qualifying projects to eligible  
20           educational institutions, and

21                           “(ii) allow certified educational insti-  
22           tutions to designate cash contributions for  
23           qualifying projects of such certified edu-  
24           cational institutions as qualified cash con-  
25           tributions.

1 “(B) LIMITATIONS.—

2 “(i) ALLOCATION LIMITATION PER IN-  
3 STITUTION.—The credit amounts allocated  
4 to a certified educational institution under  
5 subparagraph (A)(i) for all projects shall  
6 not exceed \$50,000,000 per calendar year.

7 “(ii) OVERALL ALLOCATION LIMITA-  
8 TION.—

9 “(I) IN GENERAL.—The total  
10 amount of qualifying project credit  
11 amounts that may be allocated under  
12 subparagraph (A)(i) shall not ex-  
13 ceed—

14 “(aa) \$500,000,000 for each  
15 of calendar years 2022, 2023,  
16 2024, 2025, and 2026, and

17 “(bb) \$0 for each subse-  
18 quent year.

19 “(II) ROLLOVER OF  
20 UNALLOCATED CREDIT AMOUNTS.—

21 Any credit amounts described in sub-  
22 clause (I) that are unallocated during  
23 a calendar year shall be carried to the  
24 succeeding calendar year and added to  
25 the limitation allowable under such

1                   subclause for such succeeding cal-  
2                   endar year.

3                   “(iii) DESIGNATION LIMITATION.—

4                   The aggregate amount of cash contribu-  
5                   tions which are designated by a certified  
6                   educational institution as qualifying cash  
7                   contributions with respect to any quali-  
8                   fying project shall not exceed 250 percent  
9                   of the credit amount allocated to such cer-  
10                  tified educational institution for a quali-  
11                  fying project under subparagraph (A)(i).

12                  “(2) CERTIFICATION APPLICATION.—Each eligi-  
13                  ble educational institution which applies for certifi-  
14                  cation of a project under this paragraph shall sub-  
15                  mit an application in such time, form, and manner  
16                  as the Secretary may require.

17                  “(3) SELECTION CRITERIA FOR ALLOCATIONS  
18                  TO ELIGIBLE EDUCATIONAL INSTITUTIONS.—The  
19                  Secretary, after consultation with the Secretary of  
20                  Education, shall select applications from eligible  
21                  educational institutions—

22                  “(A) based on the extent of the expected  
23                  expansion of an eligible educational institution’s  
24                  targeted research within disciplines in science,  
25                  mathematics, engineering, and technology, and

1           “(B) in a manner that ensures consider-  
2           ation is given to eligible educational institutions  
3           with full-time student populations of less than  
4           12,000.

5           “(4) DESIGNATION OF QUALIFIED CASH CON-  
6           TRIBUTIONS TO TAXPAYERS.—The Secretary, after  
7           consultation with the Secretary of Education, shall  
8           establish a process by which certified educational in-  
9           stitutions shall designate cash contributions to such  
10          institutions as qualified cash contributions.

11          “(5) DISCLOSURE OF ALLOCATIONS AND DES-  
12          IGNATIONS.—

13                 “(A) ALLOCATIONS.—The Secretary shall,  
14                 upon allocating credit amounts to an applicant  
15                 under this subsection, publicly disclose the iden-  
16                 tity of the applicant and the credit amount allo-  
17                 cated to such applicant.

18                 “(B) DESIGNATIONS.—Each certified edu-  
19                 cational institution shall, upon designating con-  
20                 tributions of a taxpayer as qualified cash con-  
21                 tributions under this subsection, publicly dis-  
22                 close the identity of the taxpayer and the  
23                 amount of contributions designated in such  
24                 time, form, and manner as the Secretary may  
25                 require.

1       “(e) REGULATIONS AND GUIDANCE.—The Secretary,  
2 after consultation with the Secretary of Education when  
3 applicable, shall prescribe such regulations and guidance  
4 as may be necessary or appropriate to carry out the pur-  
5 poses of this section, including regulations for—

6               “(1) prevention of abuse,

7               “(2) establishment of reporting requirements,

8               “(3) establishment of selection criteria for ap-  
9 plications, and

10              “(4) disclosure of allocations.

11       “(f) PENALTY FOR NONCOMPLIANCE.—

12              “(1) IN GENERAL.—If at any time during the  
13 5-year period beginning on the date of the allocation  
14 of credit amounts to a certified educational institu-  
15 tion under subsection (d)(1)(A)(i) there is a non-  
16 compliance event with respect to such credit  
17 amounts, then the following rules shall apply:

18                      “(A) GENERAL RULE.—Any cash contribu-  
19 tion designated as a qualifying cash contribu-  
20 tion with respect to a qualifying project for  
21 which such credit amounts were allocated under  
22 subsection (d)(1)(A)(ii) shall be treated as un-  
23 related business taxable income (as defined in  
24 section 512) of such certified educational insti-  
25 tution.

1           “(B) RULE FOR UNUSED CREDIT  
2 AMOUNTS.—In the case of unused credit  
3 amounts described under paragraph (2)(A) and  
4 identified pursuant to subsection (g), the Sec-  
5 retary shall reallocate any portion of such un-  
6 used credit amounts to certified educational in-  
7 stitutions in lieu of imposing the general rule  
8 under subparagraph (A).

9           “(2) NONCOMPLIANCE EVENT.—For purposes  
10 of this subsection, the term ‘noncompliance event’  
11 means, with respect to a credit amount allocated to  
12 a certified educational institution—

13           “(A) cash contributions equaling the  
14 amount of such credit amount are not des-  
15 ignated as qualifying cash contributions within  
16 2 years after December 31 of the year such  
17 credit amount is allocated,

18           “(B) a qualifying project with respect to  
19 which such credit amount was allocated is not  
20 placed in service within either—

21           “(i) 4 years after December 31 of the  
22 year such credit amount is allocated, or

23           “(ii) a period of time that the Sec-  
24 retary determines is appropriate, or

1           “(C) the research infrastructure property  
2 placed in service as part of a qualifying project  
3 with respect to which such credit amount was  
4 allocated ceases to be used for research within  
5 five years after such property is placed in serv-  
6 ice.

7           “(g) REVIEW AND REALLOCATION OF CREDIT  
8 AMOUNTS.—

9           “(1) REVIEW.—Not later than 5 years after the  
10 date of enactment of this section, the Secretary shall  
11 review the credit amounts allocated under this sec-  
12 tion as of such date.

13           “(2) REALLOCATION.—

14           “(A) IN GENERAL.—The Secretary may re-  
15 allocate credit amounts allocated under this sec-  
16 tion if the Secretary determines, as of the date  
17 of the review in paragraph (1), that such credit  
18 amounts are subject to a noncompliance event.

19           “(B) ADDITIONAL PROGRAM.—If the Sec-  
20 retary determines that credits under this sec-  
21 tion are available for reallocation pursuant to  
22 the requirements set forth in subparagraph (A),  
23 the Secretary is authorized to conduct an addi-  
24 tional program for applications for certification.

1           “(C) DEADLINE FOR REALLOCATION.—

2           The Secretary shall not certify any project, or  
3           reallocate any credit amount, pursuant to this  
4           paragraph after December 31, 2031.

5           “(h) DENIAL OF DOUBLE BENEFIT.—No credit or  
6           deduction shall be allowed under any other provision of  
7           this chapter for any qualified cash contribution for which  
8           a credit is allowed under this section.

9           “(i) RULE FOR TRUSTS AND ESTATES.—For pur-  
10          poses of this section, rules similar to the rules of sub-  
11          section (d) of section 52 shall apply.

12          “(j) TERMINATION.—This section shall not apply to  
13          qualified cash contributions made after December 31,  
14          2033.”.

15          (b) CREDIT MADE PART OF GENERAL BUSINESS  
16          CREDIT.—Subsection (b) of section 38, as amended by the  
17          preceding provisions of this Act, is amended by striking  
18          “plus” at the end of paragraph (38), by striking the period  
19          at the end of paragraph (39) and inserting “, plus”, and  
20          by adding at the end the following new paragraph:

21                 “(43) the public university research infrastruc-  
22                 ture credit determined under section 45AA.”.

23          (c) CLERICAL AMENDMENT.—The table of sections  
24          for subpart D of part IV of subchapter A of chapter 1,

1 as amended by the preceding provisions of this Act, is  
2 amended by adding at the end the following new item:

“Sec. 45AA. Public university research infrastructure credit.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to qualified cash contributions  
5 made after December 31, 2021.

6 **SEC. 137702. MODIFICATION OF EXCISE TAX ON INVEST-**  
7 **MENT INCOME OF PRIVATE COLLEGES AND**  
8 **UNIVERSITIES.**

9 (a) **PHASEOUT OF INVESTMENT INCOME EXCISE TAX**  
10 **FOR PRIVATE COLLEGES AND UNIVERSITIES PROVIDING**  
11 **SUFFICIENT GRANTS AND SCHOLARSHIPS.**—Section 4968  
12 is amended by adding at the end the following new sub-  
13 section:

14 “(e) **PHASEOUT FOR INSTITUTIONS PROVIDING**  
15 **QUALIFIED AID.**—

16 “(1) **IN GENERAL.**—The amount of tax imposed  
17 by subsection (a) (determined without regard to this  
18 subsection) shall be reduced (but not below zero) by  
19 the amount which bears the same ratio to such  
20 amount of tax (as so determined) as—

21 “(A) the excess (if any) of—

22 “(i) the aggregate amount of qualified  
23 aid awards provided by the institution to  
24 its first-time, full-time undergraduate stu-

1           dents for academic periods beginning dur-  
2           ing the taxable year, over

3           “(ii) an amount equal to 20 percent of  
4           the aggregate undergraduate tuition and  
5           fees received by the institution from first-  
6           time, full-time undergraduate students for  
7           such academic periods, bears to

8           “(B) an amount equal to 13 percent of  
9           such aggregate undergraduate tuition and fees  
10          so received.

11          “(2) INSTITUTION MUST MEET REPORTING RE-  
12          QUIREMENT.—

13                 “(A) IN GENERAL.—Paragraph (1) shall  
14                 not apply to an applicable educational institu-  
15                 tion for a taxable year unless such institution  
16                 furnishes to the Secretary, and makes widely  
17                 available, a statement detailing the average ag-  
18                 gregate amount of Federal student loans re-  
19                 ceived by a student for attendance at the insti-  
20                 tution, averaged among each of the following  
21                 groups of first-time, full-time undergraduate  
22                 students who during the taxable year completed  
23                 a course of study for which the institution  
24                 awarded a baccalaureate degree:

25                 “(i) All such students.

1           “(ii) The students who have been  
2           awarded a Federal Pell Grant under sub-  
3           part 1 of part A of title IV of the Higher  
4           Education Act of 1965 for attendance at  
5           the institution.

6           “(iii) The students who received work-  
7           study assistance under part C of title IV of  
8           such Act for attendance at such institu-  
9           tion.

10           “(iv) The students who were provided  
11           such Federal student loans.

12           “(B) FORM AND MANNER FOR REPORT.—  
13           Such statement shall be furnished at such time  
14           and in such form and manner, and made widely  
15           available, under such regulations or guidance as  
16           the Secretary may prescribe.

17           “(C) FEDERAL STUDENT LOANS.—For  
18           purposes of this paragraph, the term ‘Federal  
19           student loans’ means a loan made under part D  
20           of title IV of the Higher Education Act of  
21           1965, except such term does not include a Fed-  
22           eral Direct PLUS Loan made on behalf of a de-  
23           pendent student.

24           “(3) OTHER DEFINITIONS.—For purposes of  
25           this subsection—

1           “(A) FIRST-TIME, FULL-TIME UNDER-  
2 GRADUATE STUDENT.—The term ‘first-time,  
3 full-time undergraduate student’ shall have the  
4 same meaning as when used in section 132 of  
5 the Higher Education Act of 1965.

6           “(B) QUALIFIED AID AWARDS.—The term  
7 ‘qualified aid awards’ means, with respect to  
8 any applicable educational institution, grants  
9 and scholarships to the extent used for under-  
10 graduate tuition and fees.

11           “(C) UNDERGRADUATE TUITION AND  
12 FEES.—The term ‘undergraduate tuition and  
13 fees’ means, with respect to any institution, the  
14 tuition and fees required for the enrollment or  
15 attendance of a student as an undergraduate  
16 student at the institution.”.

17       (b) INFLATION ADJUSTMENT TO PER STUDENT  
18 ASSET THRESHOLD.—Section 4968(b) is amended by  
19 adding at the end the following new paragraph:

20           “(3) INFLATION ADJUSTMENT.—In the case of  
21 any taxable year beginning after 2022, the dollar  
22 amount in paragraph (1)(D) shall be increased by  
23 an amount equal to—

24           “(A) such dollar amount, multiplied by

1           “(B) the cost-of-living adjustment deter-  
2           mined under section 1(f)(3) for the calendar  
3           year in which the taxable year begins, deter-  
4           mined by substituting ‘calendar year 2021’ for  
5           ‘calendar year 2016’ in subparagraph (A)(ii)  
6           thereof.

7           If any increase determined under this paragraph is  
8           not a multiple of \$1,000, such increase shall be  
9           rounded to the nearest multiple of \$1,000.”.

10          (c) **CLARIFICATION OF 500 STUDENT THRESH-**  
11 **OLD.**—Section 4968(b)(1)(A) is amended by inserting  
12 “below the graduate level” after “500 tuition-paying stu-  
13 dents”.

14          (d) **EFFECTIVE DATE.**—The amendment made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2021.

17 **SEC. 137703. TREATMENT OF FEDERAL PELL GRANTS FOR**  
18 **INCOME TAX PURPOSES.**

19          (a) **EXCLUSION FROM GROSS INCOME.**—Section  
20 117(b)(1) is amended by striking “received by an indi-  
21 vidual” and all that follows and inserting “received by an  
22 individual—

23                   “(A) as a scholarship or fellowship grant  
24                   to the extent the individual establishes that, in  
25                   accordance with the conditions of the grant,

1           such amount was used for qualified tuition and  
2           related expenses, or

3                   “(B) as a Federal Pell Grant under section  
4           401 of the Higher Education Act of 1965.”.

5           (b) TREATMENT FOR PURPOSES OF AMERICAN OP-  
6           PORTUNITY TAX CREDIT AND LIFETIME LEARNING  
7           CREDIT.—Section 25A(g)(2) is amended—

8                   (1) in subparagraph (A), by inserting “de-  
9           scribed in section 117(b)(1)(A)” after “a qualified  
10          scholarship”, and

11                   (2) in subparagraph (C), by inserting “or Fed-  
12          eral Pell Grant under section 401 of the Higher  
13          Education Act of 1965” after “within the meaning  
14          of section 102(a)”.

15          (c) EFFECTIVE DATE.—The amendment made by  
16          this section shall apply to taxable years beginning after  
17          December 31, 2021.

18       **SEC. 137704. REPEAL OF DENIAL OF AMERICAN OPPOR-**  
19                   **TUNITY TAX CREDIT ON BASIS OF FELONY**  
20                   **DRUG CONVICTION.**

21          (a) IN GENERAL.—Section 25A(b)(2) is amended by  
22          striking subparagraph (D).

23          (b) EFFECTIVE DATE.—The amendment made by  
24          this section shall apply to taxable years beginning after  
25          December 31, 2021.

1                   **Subtitle J—Drug Pricing**  
2                   **PART 1—LOWERING PRICES THROUGH FAIR**  
3                   **DRUG PRICE NEGOTIATION**  
4                   **SEC. 139001. PROVIDING FOR LOWER PRICES FOR CERTAIN**  
5                   **HIGH-PRICED SINGLE SOURCE DRUGS.**

6                   (a) PROGRAM TO LOWER PRICES FOR CERTAIN  
7 HIGH-PRICED SINGLE SOURCE DRUGS.—Title XI of the  
8 Social Security Act (42 U.S.C. 1301 et seq.) is amended  
9 by adding at the end the following new part:

10                   **“PART E—FAIR PRICE NEGOTIATION PROGRAM**  
11                   **TO LOWER PRICES FOR CERTAIN HIGH-**  
12                   **PRICED SINGLE SOURCE DRUGS**

13                   **“SEC. 1191. ESTABLISHMENT OF PROGRAM.**

14                   “(a) IN GENERAL.—The Secretary shall establish a  
15 Fair Price Negotiation Program (in this part referred to  
16 as the ‘program’). Under the program, with respect to  
17 each price applicability period, the Secretary shall—

18                   “(1) publish a list of selected drugs in accord-  
19                   ance with section 1192;

20                   “(2) enter into agreements with manufacturers  
21 of selected drugs with respect to such period, in ac-  
22 cordance with section 1193;

23                   “(3) negotiate and, if applicable, renegotiate  
24 maximum fair prices for such selected drugs, in ac-  
25 cordance with section 1194; and

1           “(4) carry out the administrative duties de-  
2           scribed in section 1196.

3           “(b) DEFINITIONS RELATING TO TIMING.—For pur-  
4           poses of this part:

5           “(1) INITIAL PRICE APPLICABILITY YEAR.—The  
6           term ‘initial price applicability year’ means a plan  
7           year (beginning with plan year 2025) or, if agreed  
8           to in an agreement under section 1193 by the Sec-  
9           retary and manufacturer involved, a period of more  
10          than one plan year (beginning on or after January  
11          1, 2025).

12          “(2) PRICE APPLICABILITY PERIOD.—The term  
13          ‘price applicability period’ means, with respect to a  
14          drug, the period beginning with the initial price ap-  
15          plicability year with respect to which such drug is a  
16          selected drug and ending with the last plan year  
17          during which the drug is a selected drug.

18          “(3) SELECTED DRUG PUBLICATION DATE.—  
19          The term ‘selected drug publication date’ means,  
20          with respect to each initial price applicability year,  
21          April 15 of the plan year that begins 2 years prior  
22          to such year.

23          “(4) VOLUNTARY NEGOTIATION PERIOD.—The  
24          term ‘voluntary negotiation period’ means, with re-

1       spect to an initial price applicability year with re-  
2       spect to a selected drug, the period—

3               “(A) beginning on the sooner of—

4                       “(i) the date on which the manufac-  
5                       turer of the drug and the Secretary enter  
6                       into an agreement under section 1193 with  
7                       respect to such drug; or

8                       “(ii) June 15 following the selected  
9                       drug publication date with respect to such  
10                      selected drug; and

11               “(B) ending on March 31 of the year that  
12               begins one year prior to the initial price appli-  
13               cability year.

14       “(c) OTHER DEFINITIONS.—For purposes of this  
15       part:

16               “(1) FAIR PRICE ELIGIBLE INDIVIDUAL.—The  
17               term ‘fair price eligible individual’ means, with re-  
18               spect to a selected drug—

19                       “(A) in the case such drug is furnished or  
20                       dispensed to the individual at a pharmacy or by  
21                       a mail order service—

22                               “(i) an individual who is enrolled  
23                               under a prescription drug plan under part  
24                               D of title XVIII or an MA–PD plan under  
25                               part C of such title if coverage is provided

1 under such plan for such selected drug;  
2 and

3 “(ii) an individual who is enrolled  
4 under a group health plan or health insur-  
5 ance coverage offered in the group or indi-  
6 vidual market (as such terms are defined  
7 in section 2791 of the Public Health Serv-  
8 ice Act) with respect to which there is in  
9 effect an agreement with the Secretary  
10 under section 1197 with respect to such se-  
11 lected drug as so furnished or dispensed;  
12 and

13 “(B) in the case such drug is furnished or  
14 administered to the individual by a hospital,  
15 physician, or other provider of services or sup-  
16 plier—

17 “(i) an individual who is entitled to  
18 benefits under part A of title XVIII or en-  
19 rolled under part B of such title if such se-  
20 lected drug is covered under the respective  
21 part; and

22 “(ii) an individual who is enrolled  
23 under a group health plan or health insur-  
24 ance coverage offered in the group or indi-  
25 vidual market (as such terms are defined

1 in section 2791 of the Public Health Serv-  
2 ice Act) with respect to which there is in  
3 effect an agreement with the Secretary  
4 under section 1197 with respect to such se-  
5 lected drug as so furnished or adminis-  
6 tered.

7 “(2) MAXIMUM FAIR PRICE.—The term ‘max-  
8 imum fair price’ means, with respect to a plan year  
9 during a price applicability period and with respect  
10 to a selected drug (as defined in section 1192(e))  
11 with respect to such period, the price published pur-  
12 suant to section 1195 in the Federal Register for  
13 such drug and year.

14 “(3) AVERAGE INTERNATIONAL MARKET PRICE  
15 DEFINED.—

16 “(A) IN GENERAL.—The terms ‘average  
17 international market price’ and ‘AIM price’  
18 mean, with respect to a drug, the average price  
19 (which shall be the net average price, if prac-  
20 ticable, and volume-weighted, if practicable) for  
21 a unit (as defined in paragraph (4)) of the drug  
22 for sales of such drug (calculated across dif-  
23 ferent dosage forms and strengths of the drug  
24 and not based on the specific formulation or  
25 package size or package type), as computed (as

1 of the date of publication of such drug as a se-  
2 lected drug under section 1192(a)) in all coun-  
3 tries described in clause (ii) of subparagraph  
4 (B) that are applicable countries (as described  
5 in clause (i) of such subparagraph) with respect  
6 to such drug.

7 “(B) APPLICABLE COUNTRIES.—

8 “(i) IN GENERAL.—For purposes of  
9 subparagraph (A), a country described in  
10 clause (ii) is an applicable country de-  
11 scribed in this clause with respect to a  
12 drug if there is available an average price  
13 for any unit for the drug for sales of such  
14 drug in such country.

15 “(ii) COUNTRIES DESCRIBED.—For  
16 purposes of this paragraph, the following  
17 are countries described in this clause:

18 “(I) Australia.

19 “(II) Canada.

20 “(III) France.

21 “(IV) Germany.

22 “(V) Japan.

23 “(VI) The United Kingdom.

24 “(4) UNIT.—The term ‘unit’ means, with re-  
25 spect to a drug, the lowest identifiable quantity

1 (such as a capsule or tablet, milligram of molecules,  
2 or grams) of the drug that is dispensed.

3 **“SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE DRUGS**  
4 **AS SELECTED DRUGS.**

5 “(a) IN GENERAL.—Not later than the selected drug  
6 publication date with respect to an initial price applica-  
7 bility year, subject to subsection (h), the Secretary shall  
8 select and publish in the Federal Register a list of—

9 “(1)(A) with respect to an initial price applica-  
10 bility year during 2025, at least 25 negotiation-eligible  
11 ble drugs described in subparagraphs (A) and (B),  
12 but not subparagraph (C), of subsection (d)(1) (or,  
13 with respect to an initial price applicability year dur-  
14 ing such period beginning after 2025, the maximum  
15 number (if such number is less than 25) of such ne-  
16 gotiation-eligible drugs for the year) with respect to  
17 such year; and

18 “(B) with respect to an initial price applica-  
19 bility year during 2026 or a subsequent year, at  
20 least 50 negotiation-eligible drugs described in sub-  
21 paragraphs (A) and (B), but not subparagraph (C),  
22 of subsection (d)(1) (or, with respect to an initial  
23 price applicability year during such period, the max-  
24 imum number (if such number is less than 50) of

1 such negotiation-eligible drugs for the year) with re-  
2 spect to such year;

3 “(2) all negotiation-eligible drugs described in  
4 subparagraph (C) of such subsection with respect to  
5 such year; and

6 “(3) all new-entrant negotiation-eligible drugs  
7 (as defined in subsection (g)(1)) with respect to such  
8 year.

9 Each drug published on the list pursuant to the previous  
10 sentence shall be subject to the negotiation process under  
11 section 1194 for the voluntary negotiation period with re-  
12 spect to such initial price applicability year (and the re-  
13 negotiation process under such section as applicable for  
14 any subsequent year during the applicable price applica-  
15 bility period). In applying this subsection, any negotiation-  
16 eligible drug that is selected under this subsection for an  
17 initial price applicability year shall not count toward the  
18 required minimum amount of drugs to be selected under  
19 paragraph (1) for any subsequent year, including such a  
20 drug so selected that is subject to renegotiation under sec-  
21 tion 1194.

22 “(b) SELECTION OF DRUGS.—In carrying out sub-  
23 section (a)(1) the Secretary shall select for inclusion on  
24 the published list described in subsection (a) with respect  
25 to a price applicability period, the negotiation-eligible

1 drugs that the Secretary projects will result in the greatest  
2 savings to the Federal Government or fair price eligible  
3 individuals during the price applicability period. In making  
4 this projection of savings for drugs for which there is an  
5 AIM price for a price applicability period, the savings shall  
6 be projected across different dosage forms and strengths  
7 of the drugs and not based on the specific formulation or  
8 package size or package type of the drugs, taking into con-  
9 sideration both the volume of drugs for which payment  
10 is made, to the extent such data is available, and the  
11 amount by which the net price for the drugs exceeds the  
12 AIM price for the drugs.

13       “(c) SELECTED DRUG.—For purposes of this part,  
14 each drug included on the list published under subsection  
15 (a) with respect to an initial price applicability year shall  
16 be referred to as a ‘selected drug’ with respect to such  
17 year and each subsequent plan year beginning before the  
18 first plan year beginning after the date on which the Sec-  
19 retary determines two or more drug products—

20               “(1) are approved or licensed (as applicable)—

21                       “(A) under section 505(j) of the Federal  
22               Food, Drug, and Cosmetic Act using such drug  
23               as the listed drug; or

1           “(B) under section 351(k) of the Public  
2           Health Service Act using such drug as the ref-  
3           erence product; and

4           “(2) continue to be marketed.

5           “(d) NEGOTIATION-ELIGIBLE DRUG.—

6           “(1) IN GENERAL.—For purposes of this part,  
7           the term ‘negotiation-eligible drug’ means, with re-  
8           spect to the selected drug publication date with re-  
9           spect to an initial price applicability year, a quali-  
10          fying single source drug, as defined in subsection  
11          (e), that meets any of the following criteria:

12           “(A) COVERED PART D DRUGS.—The drug  
13           is among the 125 covered part D drugs (as de-  
14           fined in section 1860D–2(e)) for which there  
15           was an estimated greatest net spending under  
16           parts C and D of title XVIII, as determined by  
17           the Secretary, during the most recent plan year  
18           prior to such drug publication date for which  
19           data are available.

20           “(B) OTHER DRUGS.—The drug is among  
21           the 125 drugs for which there was an estimated  
22           greatest net spending in the United States (in-  
23           cluding the 50 States, the District of Columbia,  
24           and the territories of the United States), as de-  
25           termined by the Secretary, during the most re-

1 cent plan year prior to such drug publication  
2 date for which data are available.

3 “(C) INSULIN.—The drug is a qualifying  
4 single source drug described in subsection  
5 (e)(3).

6 “(2) CLARIFICATION.—In determining whether  
7 a qualifying single source drug satisfies any of the  
8 criteria described in paragraph (1), the Secretary  
9 shall, to the extent practicable, use data that is ag-  
10 gregated across dosage forms and strengths of the  
11 drug and not based on the specific formulation or  
12 package size or package type of the drug.

13 “(3) PUBLICATION.—Not later than the se-  
14 lected drug publication date with respect to an ini-  
15 tial price applicability year, the Secretary shall pub-  
16 lish in the Federal Register a list of negotiation-eli-  
17 gible drugs with respect to such selected drug publi-  
18 cation date.

19 “(e) QUALIFYING SINGLE SOURCE DRUG.—For pur-  
20 poses of this part, the term ‘qualifying single source drug’  
21 means any of the following:

22 “(1) DRUG PRODUCTS.—A drug that—

23 “(A) is approved under section 505(c) of  
24 the Federal Food, Drug, and Cosmetic Act and

1 continues to be marketed pursuant to such ap-  
2 proval; and

3 “(B) is not the listed drug for any drug  
4 that is approved and continues to be marketed  
5 under section 505(j) of such Act.

6 “(2) BIOLOGICAL PRODUCTS.—A biological  
7 product that—

8 “(A) is licensed under section 351(a) of  
9 the Public Health Service Act, including any  
10 product that has been deemed to be licensed  
11 under section 351 of such Act pursuant to sec-  
12 tion 7002(e)(4) of the Biologics Price Competi-  
13 tion and Innovation Act of 2009, and continues  
14 to be marketed under section 351 of such Act;  
15 and

16 “(B) is not the reference product for any  
17 biological product that is licensed and continues  
18 to be marketed under section 351(k) of such  
19 Act.

20 “(3) INSULIN PRODUCT.—Notwithstanding  
21 paragraphs (1) and (2), any insulin product that is  
22 approved under subsection (c) or (j) of section 505  
23 of the Federal Food, Drug, and Cosmetic Act or li-  
24 censed under subsection (a) or (k) of section 351 of  
25 the Public Health Service Act and continues to be

1 marketed under such section 505 or 351, including  
2 any insulin product that has been deemed to be li-  
3 censed under section 351(a) of the Public Health  
4 Service Act pursuant to section 7002(e)(4) of the  
5 Biologics Price Competition and Innovation Act of  
6 2009 and continues to be marketed pursuant to such  
7 licensure.

8 For purposes of applying paragraphs (1) and (2), a drug  
9 or biological product that is marketed by the same sponsor  
10 or manufacturer (or an affiliate thereof or a cross-licensed  
11 producer or distributor) as the listed drug or reference  
12 product described in such respective paragraph shall not  
13 be taken into consideration.

14 “(f) INFORMATION ON INTERNATIONAL DRUG  
15 PRICES.—For purposes of determining which negotiation-  
16 eligible drugs to select under subsection (a) and, in the  
17 case of such drugs that are selected drugs, to determine  
18 the maximum fair price for such a drug and whether such  
19 maximum fair price should be renegotiated under section  
20 1194, the Secretary shall use data relating to the AIM  
21 price with respect to such drug as available or provided  
22 to the Secretary and shall on an ongoing basis request  
23 from manufacturers of selected drugs information on the  
24 AIM price of such a drug.

1       “(g)     NEW-~~ENTRANT~~     NEGOTIATION-~~ELIGIBLE~~  
2 DRUGS.—

3           “(1) IN GENERAL.—For purposes of this part,  
4 the term ‘new-entrant negotiation-eligible drug’  
5 means, with respect to the selected drug publication  
6 date with respect to an initial price applicability  
7 year, a qualifying single source drug—

8           “(A) that is first approved or licensed, as  
9 described in paragraph (1), (2), or (3) of sub-  
10 section (e), as applicable, during the year pre-  
11 ceeding such selected drug publication date; and

12           “(B) that the Secretary determines under  
13 paragraph (2) is likely to be included as a nego-  
14 tiation-eligible drug with respect to the subse-  
15 quent selected drug publication date.

16           “(2) DETERMINATION.—In the case of a quali-  
17 fying single source drug that meets the criteria de-  
18 scribed in subparagraph (A) of paragraph (1), with  
19 respect to an initial price applicability year, if the  
20 wholesale acquisition cost at which such drug is first  
21 marketed in the United States is equal to or greater  
22 than the median household income (as determined  
23 according to the most recent data collected by the  
24 United States Census Bureau), the Secretary shall  
25 determine before the selected drug publication date

1 with respect to the initial price applicability year, if  
2 the drug is likely to be included as a negotiation-eli-  
3 gible drug with respect to the subsequent selected  
4 drug publication date, based on the projected spend-  
5 ing under title XVIII or in the United States on  
6 such drug. For purposes of this paragraph the term  
7 ‘United States’ includes the 50 States, the District  
8 of Columbia, and the territories of the United  
9 States.

10 “(h) CONFLICT OF INTEREST.—

11 “(1) IN GENERAL.—In the case the Inspector  
12 General of the Department of Health and Human  
13 Services determines the Secretary has a conflict,  
14 with respect to a matter described in paragraph (2),  
15 the individual described in paragraph (3) shall carry  
16 out the duties of the Secretary under this part, with  
17 respect to a negotiation-eligible drug, that would  
18 otherwise be such a conflict.

19 “(2) MATTER DESCRIBED.—A matter described  
20 in this paragraph is—

21 “(A) a financial interest (as described in  
22 section 2635.402 of title 5, Code of Federal  
23 Regulations, as in effect on the date of the en-  
24 actment of this section, (except for an interest  
25 described in subsection (b)(2)(iv) of such sec-

1           tion)) on the date of the selected drug publica-  
2           tion date, with respect the price applicability  
3           year (as applicable);

4           “(B) a personal or business relationship  
5           (as described in section 2635.502 of such title)  
6           on the date of the selected drug publication  
7           date, with respect the price applicability year;

8           “(C) employment by a manufacturer of a  
9           negotiation-eligible drug during the preceding  
10          10-year period beginning on the date of the se-  
11          lected drug publication date, with respect to  
12          each price applicability year; and

13          “(D) any other matter the General Counsel  
14          determines appropriate.

15          “(3) INDIVIDUAL DESCRIBED.—An individual  
16          described in this paragraph is—

17                 “(A) the highest-ranking officer or em-  
18                 ployee of the Department of Health and  
19                 Human Services (as determined by the organi-  
20                 zational chart of the Department) that does not  
21                 have a conflict under this subsection; and

22                 “(B) is nominated by the President and  
23                 confirmed by the Senate with respect to the po-  
24                 sition.

1 **“SEC. 1193. MANUFACTURER AGREEMENTS.**

2 “(a) IN GENERAL.—For purposes of section  
3 1191(a)(2), the Secretary shall enter into agreements with  
4 manufacturers of selected drugs with respect to a price  
5 applicability period, by not later than June 15 following  
6 the selected drug publication date with respect to such se-  
7 lected drug, under which—

8 “(1) during the voluntary negotiation period for  
9 the initial price applicability year for the selected  
10 drug, the Secretary and manufacturer, in accordance  
11 with section 1194, negotiate to determine (and, by  
12 not later than the last date of such period and in ac-  
13 cordance with subsection (c), agree to) a maximum  
14 fair price for such selected drug of the manufacturer  
15 in order to provide access to such price—

16 “(A) to fair price eligible individuals who  
17 with respect to such drug are described in sub-  
18 paragraph (A) of section 1191(c)(1) and are  
19 furnished or dispensed such drug during, sub-  
20 ject to subparagraph (2), the price applicability  
21 period; and

22 “(B) to hospitals, physicians, and other  
23 providers of services and suppliers with respect  
24 to fair price eligible individuals who with re-  
25 spect to such drug are described in subpara-  
26 graph (B) of such section and are furnished or

1           administered such drug during, subject to sub-  
2           paragraph (2), the price applicability period;

3           “(2) the Secretary and the manufacturer shall,  
4           in accordance with a process and during a period  
5           specified by the Secretary pursuant to rulemaking,  
6           renegotiate (and, by not later than the last date of  
7           such period and in accordance with subsection (c),  
8           agree to) the maximum fair price for such drug if  
9           the Secretary determines that there is a material  
10          change in any of the factors described in section  
11          1194(d) relating to the drug, including changes in  
12          the AIM price for such drug, in order to provide ac-  
13          cess to such maximum fair price (as so renegoti-  
14          ated)—

15                 “(A) to fair price eligible individuals who  
16                 with respect to such drug are described in sub-  
17                 paragraph (A) of section 1191(c)(1) and are  
18                 furnished or dispensed such drug during any  
19                 year during the price applicability period (be-  
20                 ginning after such renegotiation) with respect  
21                 to such selected drug; and

22                 “(B) to hospitals, physicians, and other  
23                 providers of services and suppliers with respect  
24                 to fair price eligible individuals who with re-  
25                 spect to such drug are described in subpara-

1 graph (B) of such section and are furnished or  
2 administered such drug during any year de-  
3 scribed in subparagraph (A);

4 “(3) the maximum fair price (including as re-  
5 negotiated pursuant to paragraph (2)), with respect  
6 to such a selected drug, shall be provided to fair  
7 price eligible individuals, who with respect to such  
8 drug are described in subparagraph (A) of section  
9 1191(c)(1), at the pharmacy or by a mail order serv-  
10 ice at the point-of-sale of such drug;

11 “(4) the manufacturer, subject to subsection  
12 (d), submits to the Secretary, in a form and manner  
13 specified by the Secretary—

14 “(A) for the voluntary negotiation period  
15 for the price applicability period (and, if appli-  
16 cable, before any period of renegotiation speci-  
17 fied pursuant to paragraph (2)) with respect to  
18 such drug all information that the Secretary re-  
19 quires to carry out the negotiation (or renegoti-  
20 ation process) under this part, including infor-  
21 mation described in section 1192(f) and section  
22 1194(d)(1); and

23 “(B) on an ongoing basis, information on  
24 changes in prices for such drug that would af-  
25 fect the AIM price for such drug or otherwise

1 provide a basis for renegotiation of the max-  
2 imum fair price for such drug pursuant to  
3 paragraph (2);

4 “(5) the manufacturer agrees that in the case  
5 the selected drug of a manufacturer is a drug de-  
6 scribed in subsection (c), the manufacturer will, in  
7 accordance with such subsection, make any payment  
8 required under such subsection with respect to such  
9 drug; and

10 “(6) the manufacturer complies with require-  
11 ments imposed by the Secretary for purposes of ad-  
12 ministering the program, including with respect to  
13 the duties described in section 1196.

14 “(b) AGREEMENT IN EFFECT UNTIL DRUG IS NO  
15 LONGER A SELECTED DRUG.—An agreement entered into  
16 under this section shall be effective, with respect to a drug,  
17 until such drug is no longer considered a selected drug  
18 under section 1192(c).

19 “(c) SPECIAL RULE FOR CERTAIN SELECTED DRUGS  
20 WITHOUT AIM PRICE.—

21 “(1) IN GENERAL.—In the case of a selected  
22 drug for which there is no AIM price available with  
23 respect to the initial price applicability year for such  
24 drug and for which an AIM price becomes available  
25 beginning with respect to a subsequent plan year

1 during the price applicability period for such drug,  
2 if the Secretary determines that the amount de-  
3 scribed in paragraph (2)(A) for a unit of such drug  
4 is greater than the amount described in paragraph  
5 (2)(B) for a unit of such drug, then by not later  
6 than one year after the date of such determination,  
7 the manufacturer of such selected drug shall pay to  
8 the Treasury an amount equal to the product of—

9 “(A) the difference between such amount  
10 described in paragraph (2)(A) for a unit of  
11 such drug and such amount described in para-  
12 graph (2)(B) for a unit of such drug; and

13 “(B) the number of units of such drug sold  
14 in the United States, including the 50 States,  
15 the District of Columbia, and the territories of  
16 the United States, during the period described  
17 in paragraph (2)(B).

18 “(2) AMOUNTS DESCRIBED.—

19 “(A) WEIGHTED AVERAGE PRICE BEFORE  
20 AIM PRICE AVAILABLE.—For purposes of para-  
21 graph (1), the amount described in this sub-  
22 paragraph for a selected drug described in such  
23 paragraph, is the amount equal to the weighted  
24 average manufacturer price (as defined in sec-  
25 tion 1927(k)(1)) for such dosage strength and

1 form for the drug during the period beginning  
2 with the first plan year for which the drug is  
3 included on the list of negotiation-eligible drugs  
4 published under section 1192(d) and ending  
5 with the last plan year during the price applica-  
6 bility period for such drug with respect to which  
7 there is no AIM price available for such drug.

8 “(B) AMOUNT MULTIPLIER AFTER AIM  
9 PRICE AVAILABLE.—For purposes of paragraph  
10 (1), the amount described in this subparagraph  
11 for a selected drug described in such paragraph,  
12 is the amount equal to 200 percent of the AIM  
13 price for such drug with respect to the first  
14 plan year during the price applicability period  
15 for such drug with respect to which there is an  
16 AIM price available for such drug.

17 “(d) CONFIDENTIALITY OF INFORMATION.—Infor-  
18 mation submitted to the Secretary under this part by a  
19 manufacturer of a selected drug that is proprietary infor-  
20 mation of such manufacturer (as determined by the Sec-  
21 retary) may be used only by the Secretary or disclosed  
22 to and used by the Comptroller General of the United  
23 States or the Medicare Payment Advisory Commission for  
24 purposes of carrying out this part.

25 “(e) REGULATIONS.—

1           “(1) IN GENERAL.—The Secretary shall, pursu-  
2           ant to rulemaking, specify, in accordance with para-  
3           graph (2), the information that must be submitted  
4           under subsection (a)(4).

5           “(2) INFORMATION SPECIFIED.—Information  
6           described in paragraph (1), with respect to a se-  
7           lected drug, shall include information on sales of the  
8           drug (by the manufacturer of the drug or by another  
9           entity under license or other agreement with the  
10          manufacturer, with respect to the sales of such drug,  
11          regardless of the name under which the drug is sold)  
12          in any foreign country that is part of the AIM price.  
13          The Secretary shall verify, to the extent practicable,  
14          such sales from appropriate officials of the govern-  
15          ment of the foreign country involved.

16          “(f) COMPLIANCE WITH REQUIREMENTS FOR AD-  
17          MINISTRATION OF PROGRAM.—Each manufacturer with  
18          an agreement in effect under this section shall comply with  
19          requirements imposed by the Secretary or a third party  
20          with a contract under section 1196(e)(1), as applicable,  
21          for purposes of administering the program.

22          **“SEC. 1194. NEGOTIATION AND RENEGOTIATION PROCESS.**

23          “(a) IN GENERAL.—For purposes of this part, under  
24          an agreement under section 1193 between the Secretary  
25          and a manufacturer of a selected drug, with respect to

1 the period for which such agreement is in effect and in  
2 accordance with subsections (b) and (c), the Secretary and  
3 the manufacturer—

4 “(1) shall during the voluntary negotiation pe-  
5 riod with respect to the initial price applicability  
6 year for such drug, in accordance with this section,  
7 negotiate a maximum fair price for such drug for  
8 the purpose described in section 1193(a)(1); and

9 “(2) as applicable pursuant to section  
10 1193(a)(2) and in accordance with the process speci-  
11 fied pursuant to such section, renegotiate such max-  
12 imum fair price for such drug for the purpose de-  
13 scribed in such section.

14 “(b) NEGOTIATING METHODOLOGY AND OBJEC-  
15 TIVE.—

16 “(1) IN GENERAL.—The Secretary shall develop  
17 and use a consistent methodology for negotiations  
18 under subsection (a) that, in accordance with para-  
19 graph (2) and subject to paragraph (3), achieves the  
20 lowest maximum fair price for each selected drug  
21 while appropriately rewarding innovation.

22 “(2) PRIORITIZING FACTORS.—In considering  
23 the factors described in subsection (d) in negotiating  
24 (and, as applicable, renegotiating) the maximum fair  
25 price for a selected drug, the Secretary shall, to the

1 extent practicable, consider all of the available fac-  
2 tors listed but shall prioritize the following factors:

3 “(A) RESEARCH AND DEVELOPMENT  
4 COSTS.—The factor described in paragraph  
5 (1)(A) of subsection (d).

6 “(B) MARKET DATA.—The factor de-  
7 scribed in paragraph (1)(B) of such subsection.

8 “(C) UNIT COSTS OF PRODUCTION AND  
9 DISTRIBUTION.—The factor described in para-  
10 graph (1)(C) of such subsection.

11 “(D) COMPARISON TO EXISTING THERA-  
12 PEUTIC ALTERNATIVES.—The factor described  
13 in paragraph (2)(A) of such subsection.

14 “(3) REQUIREMENT.—

15 “(A) IN GENERAL.—In negotiating the  
16 maximum fair price of a selected drug, with re-  
17 spect to an initial price applicability year for  
18 the selected drug, and, as applicable, in renego-  
19 tiating the maximum fair price for such drug,  
20 with respect to a subsequent year during the  
21 price applicability period for such drug, in the  
22 case that the manufacturer of the selected drug  
23 offers under the negotiation or renegotiation, as  
24 applicable, a price for such drug that is not  
25 more than the target price described in sub-

1 paragraph (B) for such drug for the respective  
2 year, the Secretary shall agree under such ne-  
3 gotiation or renegotiation, respectively, to such  
4 offered price as the maximum fair price.

5 “(B) TARGET PRICE.—

6 “(i) IN GENERAL.—Subject to clause  
7 (ii), the target price described in this sub-  
8 paragraph for a selected drug with respect  
9 to a year, is the average price (which shall  
10 be the net average price, if practicable, and  
11 volume-weighted, if practicable) for a unit  
12 of such drug for sales of such drug, as  
13 computed (across different dosage forms  
14 and strengths of the drug and not based  
15 on the specific formulation or package size  
16 or package type of the drug) in the appli-  
17 cable country described in section  
18 1191(c)(3)(B) with respect to such drug  
19 that, with respect to such year, has the  
20 lowest average price for such drug as com-  
21 pared to the average prices (as so com-  
22 puted) of such drug with respect to such  
23 year in the other applicable countries de-  
24 scribed in such section with respect to such  
25 drug.

1                   “(ii) SELECTED DRUGS WITHOUT AIM  
2                   PRICE.—In applying this paragraph in the  
3                   case of negotiating the maximum fair price  
4                   of a selected drug for which there is no  
5                   AIM price available with respect to the ini-  
6                   tial price applicability year for such drug,  
7                   or, as applicable, renegotiating the max-  
8                   imum fair price for such drug with respect  
9                   to a subsequent year during the price ap-  
10                  plicability period for such drug before the  
11                  first plan year for which there is an AIM  
12                  price available for such drug, the target  
13                  price described in this subparagraph for  
14                  such drug and respective year is the  
15                  amount that is 80 percent of the average  
16                  manufacturer price (as defined in section  
17                  1927(k)(1)) for such drug and year.

18                  “(c) LIMITATION.—

19                         “(1) IN GENERAL.—Subject to paragraph (2),  
20                         the maximum fair price negotiated (including as re-  
21                         negotiated) under this section for a selected drug,  
22                         with respect to each plan year during a price appli-  
23                         cability period for such drug, shall not exceed 120  
24                         percent of the AIM price applicable to such drug  
25                         with respect to such year.

1           “(2) SELECTED DRUGS WITHOUT AIM PRICE.—

2           In the case of a selected drug for which there is no  
3           AIM price available with respect to the initial price  
4           applicability year for such drug, for each plan year  
5           during the price applicability period before the first  
6           plan year for which there is an AIM price available  
7           for such drug, the maximum fair price negotiated  
8           (including as renegotiated) under this section for the  
9           selected drug shall not exceed the amount equal to  
10          85 percent of the average manufacturer price for the  
11          drug with respect to such year.

12          “(d) CONSIDERATIONS.—For purposes of negotiating  
13          and, as applicable, renegotiating (including for purposes  
14          of determining whether to renegotiate) the maximum fair  
15          price of a selected drug under this part with the manufac-  
16          turer of the drug, the Secretary, consistent with sub-  
17          section (b)(2), shall take into consideration the factors de-  
18          scribed in paragraphs (1), (2), (3), and (5), and may take  
19          into consideration the factor described in paragraph (4):

20                  “(1) MANUFACTURER-SPECIFIC INFORMA-  
21                  TION.—The following information, including as sub-  
22                  mitted by the manufacturer:

23                          “(A) Research and development costs of  
24                          the manufacturer for the drug and the extent to

1           which the manufacturer has recouped research  
2           and development costs.

3           “(B) Market data for the drug, including  
4           the distribution of sales across different pro-  
5           grams and purchasers and projected future rev-  
6           enues for the drug.

7           “(C) Unit costs of production and distribu-  
8           tion of the drug.

9           “(D) Prior Federal financial support for  
10          novel therapeutic discovery and development  
11          with respect to the drug.

12          “(E) Data on patents and on existing and  
13          pending exclusivity for the drug.

14          “(F) National sales data for the drug.

15          “(G) Information on clinical trials for the  
16          drug in the United States or in applicable coun-  
17          tries described in section 1191(c)(3)(B).

18          “(2) INFORMATION ON ALTERNATIVE PROD-  
19          UCTS.—The following information:

20          “(A) The extent to which the drug rep-  
21          resents a therapeutic advance as compared to  
22          existing therapeutic alternatives and, to the ex-  
23          tent such information is available, the costs of  
24          such existing therapeutic alternatives.

1           “(B) Information on approval by the Food  
2           and Drug Administration of alternative drug  
3           products.

4           “(C) Information on comparative effective-  
5           ness analysis for such products, taking into  
6           consideration the effects of such products on  
7           specific populations, such as individuals with  
8           disabilities, the elderly, terminally ill, children,  
9           and other patient populations.

10          In considering information described in subpara-  
11          graph (C), the Secretary shall not use evidence or  
12          findings from comparative clinical effectiveness re-  
13          search in a manner that treats extending the life of  
14          an elderly, disabled, or terminally ill individual as of  
15          lower value than extending the life of an individual  
16          who is younger, nondisabled, or not terminally ill.  
17          Nothing in the previous sentence shall affect the ap-  
18          plication or consideration of an AIM price for a se-  
19          lected drug.

20          “(3) FOREIGN SALES INFORMATION.—To the  
21          extent available on a timely basis, including as pro-  
22          vided by a manufacturer of the selected drug or oth-  
23          erwise, information on sales of the selected drug in  
24          each of the countries described in section  
25          1191(e)(3)(B).

1           “(4) VA DRUG PRICING INFORMATION.—Infor-  
2           mation disclosed to the Secretary pursuant to sub-  
3           section (f).

4           “(5) ADDITIONAL INFORMATION.—Information  
5           submitted to the Secretary, in accordance with a  
6           process specified by the Secretary, by other parties  
7           that are affected by the establishment of a maximum  
8           fair price for the selected drug.

9           “(e) REQUEST FOR INFORMATION.—For purposes of  
10          negotiating and, as applicable, renegotiating (including for  
11          purposes of determining whether to renegotiate) the max-  
12          imum fair price of a selected drug under this part with  
13          the manufacturer of the drug, with respect to a price ap-  
14          plicability period, and other relevant data for purposes of  
15          this section—

16               “(1) the Secretary shall, not later than the se-  
17               lected drug publication date with respect to the ini-  
18               tial price applicability year of such period, request  
19               drug pricing information from the manufacturer of  
20               such selected drug, including information described  
21               in subsection (d)(1); and

22               “(2) by not later than October 1 following the  
23               selected drug publication date, the manufacturer of  
24               such selected drug shall submit to the Secretary

1 such requested information in such form and man-  
2 ner as the Secretary may require.

3 The Secretary shall request, from the manufacturer or  
4 others, such additional information as may be needed to  
5 carry out the negotiation and renegotiation process under  
6 this section.

7 “(f) DISCLOSURE OF INFORMATION.—For purposes  
8 of this part, the Secretary of Veterans Affairs may disclose  
9 to the Secretary of Health and Human Services the price  
10 of any negotiation-eligible drug that is purchased pursuant  
11 to section 8126 of title 38, United States Code.

12 **“SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.**

13 “(a) IN GENERAL.—With respect to an initial price  
14 applicability year and selected drug with respect to such  
15 year, not later than April 1 of the plan year prior to such  
16 initial price applicability year, the Secretary shall publish  
17 in the Federal Register the maximum fair price for such  
18 drug negotiated under this part with the manufacturer of  
19 such drug.

20 “(b) UPDATES.—

21 “(1) SUBSEQUENT YEAR MAXIMUM FAIR  
22 PRICES.—For a selected drug, for each plan year  
23 subsequent to the initial price applicability year for  
24 such drug with respect to which an agreement for

1 such drug is in effect under section 1193, the Sec-  
2 retary shall publish in the Federal Register—

3 “(A) subject to subparagraph (B), the  
4 amount equal to the maximum fair price pub-  
5 lished for such drug for the previous year, in-  
6 creased by the annual percentage increase in  
7 the consumer price index for all urban con-  
8 sumers (all items; U.S. city average) as of Sep-  
9 tember of such previous year; or

10 “(B) in the case the maximum fair price  
11 for such drug was renegotiated, for the first  
12 year for which such price as so renegotiated ap-  
13 plies, such renegotiated maximum fair price.

14 “(2) PRICES NEGOTIATED AFTER DEADLINE.—  
15 In the case of a selected drug with respect to an ini-  
16 tial price applicability year for which the maximum  
17 fair price is determined under this part after the  
18 date of publication under this section, the Secretary  
19 shall publish such maximum fair price in the Fed-  
20 eral Register by not later than 30 days after the  
21 date such maximum price is so determined.

22 **“SEC. 1196. ADMINISTRATIVE DUTIES; COORDINATION PRO-**  
23 **VISIONS.**

24 “(a) ADMINISTRATIVE DUTIES.—

1           “(1) IN GENERAL.—For purposes of section  
2           1191, the administrative duties described in this sec-  
3           tion are the following:

4                   “(A) The establishment of procedures (in-  
5                   cluding through agreements with manufacturers  
6                   under this part, contracts with prescription  
7                   drug plans under part D of title XVIII and  
8                   MA–PD plans under part C of such title, and  
9                   agreements under section 1197 with group  
10                  health plans and health insurance issuers of  
11                  health insurance coverage offered in the indi-  
12                  vidual or group market) under which the max-  
13                  imum fair price for a selected drug is provided  
14                  to fair price eligible individuals, who with re-  
15                  spect to such drug are described in subpara-  
16                  graph (A) of section 1191(c)(1), at pharmacies  
17                  or by mail order service at the point-of-sale of  
18                  the drug for the applicable price period for such  
19                  drug and providing that such maximum fair  
20                  price is used for determining cost-sharing under  
21                  such plans or coverage for the selected drug.

22                   “(B) The establishment of procedures (in-  
23                   cluding through agreements with manufacturers  
24                   under this part and contracts with hospitals,  
25                   physicians, and other providers of services and

1 suppliers and agreements under section 1197  
2 with group health plans and health insurance  
3 issuers of health insurance coverage offered in  
4 the individual or group market) under which, in  
5 the case of a selected drug furnished or admin-  
6 istered by such a hospital, physician, or other  
7 provider of services or supplier to fair price eli-  
8 gible individuals (who with respect to such drug  
9 are described in subparagraph (B) of section  
10 1191(c)(1)), the maximum fair price for the se-  
11 lected drug is provided to such hospitals, physi-  
12 cians, and other providers of services and sup-  
13 pliers (as applicable) with respect to such indi-  
14 viduals and providing that such maximum fair  
15 price is used for determining cost-sharing under  
16 the respective part, plan, or coverage for the se-  
17 lected drug.

18 “(C) The establishment of procedures (in-  
19 cluding through agreements and contracts de-  
20 scribed in subparagraphs (A) and (B)) to en-  
21 sure that, not later than 90 days after the dis-  
22 pensing of a selected drug to a fair price eligi-  
23 ble individual by a pharmacy or mail order serv-  
24 ice, the pharmacy or mail order service is reim-

1           bursed for an amount equal to the difference  
2           between—

3                   “(i) the lesser of—

4                           “(I) the wholesale acquisition  
5                           cost of the drug;

6                           “(II) the national average drug  
7                           acquisition cost of the drug; and

8                           “(III) any other similar deter-  
9                           mination of pharmacy acquisition  
10                           costs of the drug, as determined by  
11                           the Secretary; and

12                           “(ii) the maximum fair price for the  
13                           drug.

14                           “(D) The establishment of procedures to  
15                           ensure that the maximum fair price for a se-  
16                           lected drug is applied before—

17                                   “(i) any coverage or financial assist-  
18                                   ance under other health benefit plans or  
19                                   programs that provide coverage or finan-  
20                                   cial assistance for the purchase or provi-  
21                                   sion of prescription drug coverage on be-  
22                                   half of fair price eligible individuals as the  
23                                   Secretary may specify; and

24                                   “(ii) any other discounts.

1           “(E) The establishment of procedures to  
2           enter into appropriate agreements and protocols  
3           for the ongoing computation of AIM prices for  
4           selected drugs, including, to the extent possible,  
5           to compute the AIM price for selected drugs  
6           and including by providing that the manufac-  
7           turer of such a selected drug should provide in-  
8           formation for such computation not later than  
9           3 months after the first date of the voluntary  
10          negotiation period for such selected drug.

11          “(F) The establishment of procedures to  
12          compute and apply the maximum fair price  
13          across different strengths and dosage forms of  
14          a selected drug and not based on the specific  
15          formulation or package size or package type of  
16          the drug.

17          “(G) The establishment of procedures to  
18          negotiate and apply the maximum fair price in  
19          a manner that does not include any dispensing  
20          or similar fee.

21          “(H) The establishment of procedures to  
22          carry out the provisions of this part, as applica-  
23          ble, with respect to—

24                  “(i) fair price eligible individuals who  
25                  are enrolled under a prescription drug plan

1 under part D of title XVIII or an MA–PD  
2 plan under part C of such title;

3 “(ii) fair price eligible individuals who  
4 are enrolled under a group health plan or  
5 health insurance coverage offered by a  
6 health insurance issuer in the individual or  
7 group market with respect to which there  
8 is an agreement in effect under section  
9 1197; and

10 “(iii) fair price eligible individuals who  
11 are entitled to benefits under part A of  
12 title XVIII or enrolled under part B of  
13 such title.

14 “(I) The establishment of a negotiation  
15 process and renegotiation process in accordance  
16 with section 1194, including a process for ac-  
17 quiring information described in subsection (d)  
18 of such section and determining amounts de-  
19 scribed in subsection (b) of such section.

20 “(J) The provision of a reasonable dispute  
21 resolution mechanism to resolve disagreements  
22 between manufacturers, fair price eligible indi-  
23 viduals, and the third party with a contract  
24 under subsection (c)(1).

25 “(2) MONITORING COMPLIANCE.—

1           “(A) IN GENERAL.—The Secretary shall  
2           monitor compliance by a manufacturer with the  
3           terms of an agreement under section 1193, in-  
4           cluding by establishing a mechanism through  
5           which violations of such terms may be reported.

6           “(B) NOTIFICATION.—If a third party  
7           with a contract under subsection (c)(1) deter-  
8           mines that the manufacturer is not in compli-  
9           ance with such agreement, the third party shall  
10          notify the Secretary of such noncompliance for  
11          appropriate enforcement under section 4192 of  
12          the Internal Revenue Code of 1986 or section  
13          1198, as applicable.

14          “(b) COLLECTION OF DATA.—

15               “(1) FROM PRESCRIPTION DRUG PLANS AND  
16               MA–PD PLANS.—The Secretary may collect appro-  
17               priate data from prescription drug plans under part  
18               D of title XVIII and MA–PD plans under part C of  
19               such title in a timeframe that allows for maximum  
20               fair prices to be provided under this part for selected  
21               drugs.

22               “(2) FROM HEALTH PLANS.—The Secretary  
23               may collect appropriate data from group health  
24               plans or health insurance issuers offering group or  
25               individual health insurance coverage in a timeframe

1 that allows for maximum fair prices to be provided  
2 under this part for selected drugs.

3 “(3) COORDINATION OF DATA COLLECTION.—

4 To the extent feasible, as determined by the Sec-  
5 retary, the Secretary shall ensure that data collected  
6 pursuant to this subsection is coordinated with, and  
7 not duplicative of, other Federal data collection ef-  
8 forts.

9 “(c) CONTRACT WITH THIRD PARTIES.—

10 “(1) IN GENERAL.—The Secretary may enter  
11 into a contract with 1 or more third parties to ad-  
12 minister the requirements established by the Sec-  
13 retary in order to carry out this part. At a min-  
14 imum, the contract with a third party under the pre-  
15 ceding sentence shall require that the third party—

16 “(A) receive and transmit information be-  
17 tween the Secretary, manufacturers, and other  
18 individuals or entities the Secretary determines  
19 appropriate;

20 “(B) receive, distribute, or facilitate the  
21 distribution of funds of manufacturers to ap-  
22 propriate individuals or entities in order to  
23 meet the obligations of manufacturers under  
24 agreements under this part;

1           “(C) provide adequate and timely informa-  
2           tion to manufacturers, consistent with the  
3           agreement with the manufacturer under this  
4           part, as necessary for the manufacturer to ful-  
5           fill its obligations under this part; and

6           “(D) permit manufacturers to conduct  
7           periodic audits, directly or through contracts, of  
8           the data and information used by the third  
9           party to determine discounts for applicable  
10          drugs of the manufacturer under the program.

11          “(2) PERFORMANCE REQUIREMENTS.—The  
12          Secretary shall establish performance requirements  
13          for a third party with a contract under paragraph  
14          (1) and safeguards to protect the independence and  
15          integrity of the activities carried out by the third  
16          party under the program under this part.

17      **“SEC. 1197. VOLUNTARY PARTICIPATION BY OTHER**  
18                                      **HEALTH PLANS.**

19          “(a) AGREEMENT TO PARTICIPATE UNDER PRO-  
20          GRAM.—

21                 “(1) IN GENERAL.—Subject to paragraph (2),  
22                 under the program under this part the Secretary  
23                 shall be treated as having in effect an agreement  
24                 with a group health plan or health insurance issuer  
25                 offering group or individual health insurance cov-

1 erage (as such terms are defined in section 2791 of  
2 the Public Health Service Act), with respect to a  
3 price applicability period and a selected drug with  
4 respect to such period—

5 “(A) with respect to such selected drug  
6 furnished or dispensed at a pharmacy or by  
7 mail order service if coverage is provided under  
8 such plan or coverage during such period for  
9 such selected drug as so furnished or dispensed;  
10 and

11 “(B) with respect to such selected drug  
12 furnished or administered by a hospital, physi-  
13 cian, or other provider of services or supplier if  
14 coverage is provided under such plan or cov-  
15 erage during such period for such selected drug  
16 as so furnished or administered.

17 “(2) OPTING OUT OF AGREEMENT.—The Sec-  
18 retary shall not be treated as having in effect an  
19 agreement under the program under this part with  
20 a group health plan or health insurance issuer offer-  
21 ing group or individual health insurance coverage  
22 with respect to a price applicability period and a se-  
23 lected drug with respect to such period if such a  
24 plan or issuer affirmatively elects, through a process

1 specified by the Secretary, not to participate under  
2 the program with respect to such period and drug.  
3 “(b) PUBLICATION OF ELECTION.—With respect to  
4 each price applicability period and each selected drug with  
5 respect to such period, the Secretary and the Secretary  
6 of Labor and the Secretary of the Treasury, as applicable,  
7 shall make public a list of each group health plan and each  
8 health insurance issuer offering group or individual health  
9 insurance coverage, with respect to which coverage is pro-  
10 vided under such plan or coverage for such drug, that has  
11 elected under subsection (a) not to participate under the  
12 program with respect to such period and drug.

13 **“SEC. 1198. CIVIL MONETARY PENALTY.**

14 “(a) VIOLATIONS RELATING TO OFFERING OF MAX-  
15 IMUM FAIR PRICE.—Any manufacturer of a selected drug  
16 that has entered into an agreement under section 1193,  
17 with respect to a plan year during the price applicability  
18 period for such drug, that does not provide access to a  
19 price that is not more than the maximum fair price (or  
20 a lesser price) for such drug for such year—

21 “(1) to a fair price eligible individual who with  
22 respect to such drug is described in subparagraph  
23 (A) of section 1191(c)(1) and who is furnished or  
24 dispensed such drug during such year; or

1           “(2) to a hospital, physician, or other provider  
2           of services or supplier with respect to fair price eligi-  
3           ble individuals who with respect to such drug is de-  
4           scribed in subparagraph (B) of such section and is  
5           furnished or administered such drug by such hos-  
6           pital, physician, or provider or supplier during such  
7           year;

8 shall be subject to a civil monetary penalty equal to ten  
9 times the amount equal to the difference between the price  
10 for such drug made available for such year by such manu-  
11 facturer with respect to such individual or hospital, physi-  
12 cian, provider, or supplier and the maximum fair price for  
13 such drug for such year.

14           “(b) VIOLATIONS OF CERTAIN TERMS OF AGREE-  
15 MENT.—Any manufacturer of a selected drug that has en-  
16 tered into an agreement under section 1193, with respect  
17 to a plan year during the price applicability period for  
18 such drug, that is in violation of a requirement imposed  
19 pursuant to section 1193(a)(6) shall be subject to a civil  
20 monetary penalty of not more than \$1,000,000 for each  
21 such violation.

22           “(c) APPLICATION.—The provisions of section 1128A  
23 (other than subsections (a) and (b)) shall apply to a civil  
24 monetary penalty under this section in the same manner

1 as such provisions apply to a penalty or proceeding under  
2 section 1128A(a).

3 **“SEC. 1199. MISCELLANEOUS PROVISIONS.**

4 “(a) PAPERWORK REDUCTION ACT.—Chapter 35 of  
5 title 44, United States Code, shall not apply to data col-  
6 lected under this part.

7 “(b) LIMITATION ON JUDICIAL REVIEW.—The fol-  
8 lowing shall not be subject to judicial review:

9 “(1) The selection of drugs for publication  
10 under section 1192(a).

11 “(2) The determination of whether a drug is a  
12 negotiation-eligible drug under section 1192(d).

13 “(3) The determination of the maximum fair  
14 price of a selected drug under section 1194.

15 “(4) The determination of units of a drug for  
16 purposes of section 1191(c)(3).

17 “(c) COORDINATION.—In carrying out this part with  
18 respect to group health plans or health insurance coverage  
19 offered in the group market that are subject to oversight  
20 by the Secretary of Labor or the Secretary of the Treas-  
21 ury, the Secretary of Health and Human Services shall  
22 coordinate with such respective Secretary.

23 “(d) DATA SHARING.—The Secretary shall share  
24 with the Secretary of the Treasury such information as

1 is necessary to determine the tax imposed by section 4192  
2 of the Internal Revenue Code of 1986.”.

3 (b) APPLICATION OF MAXIMUM FAIR PRICES AND  
4 CONFORMING AMENDMENTS.—

5 (1) UNDER MEDICARE.—

6 (A) APPLICATION TO PAYMENTS UNDER  
7 PART B.—Section 1847A(b)(1)(B) of the Social  
8 Security Act (42 U.S.C. 1395w–3a(b)(1)(B)) is  
9 amended by inserting “or in the case of such a  
10 drug or biological that is a selected drug (as de-  
11 fined in section 1192(c)), with respect to a  
12 price applicability period (as defined in section  
13 1191(b)(2)), 106 percent of the maximum fair  
14 price (as defined in section 1191(c)(2)) applica-  
15 ble for such drug and a plan year during such  
16 period” after “paragraph (4)”.

17 (B) EXCEPTION TO PART D NON-INTER-  
18 FERENCE.—Section 1860D–11(i) of the Social  
19 Security Act (42 U.S.C. 1395w–111(i)) is  
20 amended by inserting “, except as provided  
21 under part E of title XI” after “the Secretary”.

22 (C) APPLICATION AS NEGOTIATED PRICE  
23 UNDER PART D.—Section 1860D–2(d)(1) of the  
24 Social Security Act (42 U.S.C. 1395w–  
25 102(d)(1)) is amended—

1 (i) in subparagraph (B), by inserting  
2 “, subject to subparagraph (D),” after  
3 “negotiated prices”; and

4 (ii) by adding at the end the following  
5 new subparagraph:

6 “(D) APPLICATION OF MAXIMUM FAIR  
7 PRICE FOR SELECTED DRUGS.—In applying this  
8 section, in the case of a covered part D drug  
9 that is a selected drug (as defined in section  
10 1192(c)), with respect to a price applicability  
11 period (as defined in section 1191(b)(2)), the  
12 negotiated prices used for payment (as de-  
13 scribed in this subsection) shall be the max-  
14 imum fair price (as defined in section  
15 1191(c)(2)) for such drug and for each plan  
16 year during such period.”.

17 (D) INFORMATION FROM PRESCRIPTION  
18 DRUG PLANS AND MA-PD PLANS REQUIRED.—

19 (i) PRESCRIPTION DRUG PLANS.—Sec-  
20 tion 1860D-12(b) of the Social Security  
21 Act (42 U.S.C. 1395w-112(b)) is amended  
22 by adding at the end the following new  
23 paragraph:

24 “(8) PROVISION OF INFORMATION RELATED TO  
25 MAXIMUM FAIR PRICES.—Each contract entered into

1 with a PDP sponsor under this part with respect to  
2 a prescription drug plan offered by such sponsor  
3 shall require the sponsor to provide information to  
4 the Secretary as requested by the Secretary in ac-  
5 cordance with section 1196(b).”.

6 (ii) MA–PD PLANS.—Section  
7 1857(f)(3) of the Social Security Act (42  
8 U.S.C. 1395w–27(f)(3)) is amended by  
9 adding at the end the following new sub-  
10 paragraph:

11 “(E) PROVISION OF INFORMATION RE-  
12 LATED TO MAXIMUM FAIR PRICES.—Section  
13 1860D–12(b)(8).”.

14 (2) UNDER GROUP HEALTH PLANS AND  
15 HEALTH INSURANCE COVERAGE.—

16 (A) PHSA.—Part D of title XXVII of the  
17 Public Health Service Act (42 U.S.C. 300gg–  
18 111 et seq.) is amended by adding at the end  
19 the following new section:

20 **“SEC. 2799A–11. FAIR PRICE NEGOTIATION PROGRAM AND**  
21 **APPLICATION OF MAXIMUM FAIR PRICES.**

22 “(a) IN GENERAL.—In the case of a group health  
23 plan or health insurance issuer offering group or indi-  
24 vidual health insurance coverage that is treated under sec-  
25 tion 1197 of the Social Security Act as having in effect

1 an agreement with the Secretary under the Fair Price Ne-  
2 gotiation Program under part E of title XI of such Act,  
3 with respect to a price applicability period (as defined in  
4 section 1191(b) of such Act) and a selected drug (as de-  
5 fined in section 1192(c) of such Act) with respect to such  
6 period with respect to which coverage is provided under  
7 such plan or coverage—

8 “(1) the provisions of such part shall apply—

9 “(A) if coverage of such selected drug is  
10 provided under such plan or coverage if the  
11 drug is furnished or dispensed at a pharmacy  
12 or by a mail order service, to the plans or cov-  
13 erage offered by such plan or issuer, and to the  
14 individuals enrolled under such plans or cov-  
15 erage, during such period, with respect to such  
16 selected drug, in the same manner as such pro-  
17 visions apply to prescription drug plans and  
18 MA-PD plans, and to individuals enrolled  
19 under such prescription drug plans and MA-  
20 PD plans during such period; and

21 “(B) if coverage of such selected drug is  
22 provided under such plan or coverage if the  
23 drug is furnished or administered by a hospital,  
24 physician, or other provider of services or sup-  
25 plier, to the plans or coverage offered by such

1 plan or issuers, to the individuals enrolled  
2 under such plans or coverage, and to hospitals,  
3 physicians, and other providers of services and  
4 suppliers during such period, with respect to  
5 such drug in the same manner as such provi-  
6 sions apply to the Secretary, to individuals enti-  
7 tled to benefits under part A of title XVIII or  
8 enrolled under part B of such title, and to hos-  
9 pitals, physicians, and other providers and sup-  
10 pliers participating under title XVIII during  
11 such period;

12 “(2) the plan or issuer shall apply any cost-  
13 sharing responsibilities under such plan or coverage,  
14 with respect to such selected drug, by substituting  
15 an amount not more than the maximum fair price  
16 negotiated under such part E of title XI for such  
17 drug in lieu of the drug price upon which the cost-  
18 sharing would have otherwise applied, and such cost-  
19 sharing responsibilities with respect to such selected  
20 drug may not exceed such maximum fair price; and

21 “(3) the Secretary shall apply the provisions of  
22 such part E to such plan, issuer, and coverage, such  
23 individuals so enrolled in such plans and coverage,  
24 and such hospitals, physicians, and other providers

1 and suppliers participating in such plans and cov-  
2 erage.

3 “(b) NOTIFICATION REGARDING NONPARTICIPATION  
4 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health  
5 plan or a health insurance issuer offering group or indi-  
6 vidual health insurance coverage shall publicly disclose in  
7 a manner and in accordance with a process specified by  
8 the Secretary any election made under section 1197 of the  
9 Social Security Act by the plan or issuer to not participate  
10 in the Fair Price Negotiation Program under part E of  
11 title XI of such Act with respect to a selected drug (as  
12 defined in section 1192(c) of such Act) for which coverage  
13 is provided under such plan or coverage before the begin-  
14 ning of the plan year for which such election was made.”.

15 (B) ERISA.—

16 (i) IN GENERAL.—Subpart B of part  
17 7 of subtitle B of title I of the Employee  
18 Retirement Income Security Act of 1974  
19 (29 U.S.C. 1181 et seq.) is amended by  
20 adding at the end the following new sec-  
21 tion:

22 **“SEC. 726. FAIR PRICE NEGOTIATION PROGRAM AND APPLI-  
23 CATION OF MAXIMUM FAIR PRICES.**

24 “(a) IN GENERAL.—In the case of a group health  
25 plan or health insurance issuer offering group health in-

1 surance coverage that is treated under section 1197 of the  
2 Social Security Act as having in effect an agreement with  
3 the Secretary under the Fair Price Negotiation Program  
4 under part E of title XI of such Act, with respect to a  
5 price applicability period (as defined in section 1191(b)  
6 of such Act) and a selected drug (as defined in section  
7 1192(c) of such Act) with respect to such period with re-  
8 spect to which coverage is provided under such plan or  
9 coverage—

10 “(1) the provisions of such part shall apply, as  
11 applicable—

12 “(A) if coverage of such selected drug is  
13 provided under such plan or coverage if the  
14 drug is furnished or dispensed at a pharmacy  
15 or by a mail order service, to the plans or cov-  
16 erage offered by such plan or issuer, and to the  
17 individuals enrolled under such plans or cov-  
18 erage, during such period, with respect to such  
19 selected drug, in the same manner as such pro-  
20 visions apply to prescription drug plans and  
21 MA-PD plans, and to individuals enrolled  
22 under such prescription drug plans and MA-  
23 PD plans during such period; and

24 “(B) if coverage of such selected drug is  
25 provided under such plan or coverage if the

1 drug is furnished or administered by a hospital,  
2 physician, or other provider of services or sup-  
3 plier, to the plans or coverage offered by such  
4 plan or issuers, to the individuals enrolled  
5 under such plans or coverage, and to hospitals,  
6 physicians, and other providers of services and  
7 suppliers during such period, with respect to  
8 such drug in the same manner as such provi-  
9 sions apply to the Secretary, to individuals enti-  
10 tled to benefits under part A of title XVIII or  
11 enrolled under part B of such title, and to hos-  
12 pitals, physicians, and other providers and sup-  
13 pliers participating under title XVIII during  
14 such period;

15 “(2) the plan or issuer shall apply any cost-  
16 sharing responsibilities under such plan or coverage,  
17 with respect to such selected drug, by substituting  
18 an amount not more than the maximum fair price  
19 negotiated under such part E of title XI for such  
20 drug in lieu of the drug price upon which the cost-  
21 sharing would have otherwise applied, and such cost-  
22 sharing responsibilities with respect to such selected  
23 drug may not exceed such maximum fair price; and

1           “(3) the Secretary shall apply the provisions of  
2           such part E to such plan, issuer, and coverage, and  
3           such individuals so enrolled in such plans.

4           “(b) NOTIFICATION REGARDING NONPARTICIPATION  
5 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health  
6 plan or a health insurance issuer offering group health in-  
7 surance coverage shall publicly disclose in a manner and  
8 in accordance with a process specified by the Secretary  
9 any election made under section 1197 of the Social Secu-  
10 rity Act by the plan or issuer to not participate in the  
11 Fair Price Negotiation Program under part E of title XI  
12 of such Act with respect to a selected drug (as defined  
13 in section 1192(c) of such Act) for which coverage is pro-  
14 vided under such plan or coverage before the beginning  
15 of the plan year for which such election was made.”.

16                           (ii) APPLICATION TO RETIREE AND  
17                           CERTAIN SMALL GROUP HEALTH PLANS.—  
18                           Section 732(a) of the Employee Retire-  
19                           ment Income Security Act of 1974 (29  
20                           U.S.C. 1191a(a)) is amended by striking  
21                           “section 711” and inserting “sections 711  
22                           and 726”.

23                           (iii) CLERICAL AMENDMENT.—The  
24                           table of sections for subpart B of part 7 of  
25                           subtitle B of title I of the Employee Re-

1           tirement Income Security Act of 1974 is  
2           amended by adding at the end the fol-  
3           lowing:

“Sec. 726. Fair Price Negotiation Program and application of maximum fair prices.”.

4           (C) IRC.—

5                   (i) IN GENERAL.—Subchapter B of  
6           chapter 100 of the Internal Revenue Code  
7           of 1986 is amended by adding at the end  
8           the following new section:

9   **“SEC. 9826. FAIR PRICE NEGOTIATION PROGRAM AND AP-**  
10           **PLICATION OF MAXIMUM FAIR PRICES.**

11           “(a) IN GENERAL.—In the case of a group health  
12   plan that is treated under section 1197 of the Social Secu-  
13   rity Act as having in effect an agreement with the Sec-  
14   retary under the Fair Price Negotiation Program under  
15   part E of title XI of such Act, with respect to a price  
16   applicability period (as defined in section 1191(b) of such  
17   Act) and a selected drug (as defined in section 1192(c)  
18   of such Act) with respect to such period with respect to  
19   which coverage is provided under such plan—

20                   “(1) the provisions of such part shall apply, as  
21   applicable—

22                           “(A) if coverage of such selected drug is  
23   provided under such plan if the drug is fur-  
24   nished or dispensed at a pharmacy or by a mail

1 order service, to the plan, and to the individuals  
2 enrolled under such plan during such period,  
3 with respect to such selected drug, in the same  
4 manner as such provisions apply to prescription  
5 drug plans and MA–PD plans, and to individ-  
6 uals enrolled under such prescription drug  
7 plans and MA–PD plans during such period;  
8 and

9 “(B) if coverage of such selected drug is  
10 provided under such plan if the drug is fur-  
11 nished or administered by a hospital, physician,  
12 or other provider of services or supplier, to the  
13 plan, to the individuals enrolled under such  
14 plan, and to hospitals, physicians, and other  
15 providers of services and suppliers during such  
16 period, with respect to such drug in the same  
17 manner as such provisions apply to the Sec-  
18 retary, to individuals entitled to benefits under  
19 part A of title XVIII or enrolled under part B  
20 of such title, and to hospitals, physicians, and  
21 other providers and suppliers participating  
22 under title XVIII during such period;

23 “(2) the plan shall apply any cost-sharing re-  
24 sponsibilities under such plan, with respect to such  
25 selected drug, by substituting an amount not more

1 than the maximum fair price negotiated under such  
2 part E of title XI for such drug in lieu of the drug  
3 price upon which the cost-sharing would have other-  
4 wise applied, and such cost-sharing responsibilities  
5 with respect to such selected drug may not exceed  
6 such maximum fair price; and

7 “(3) the Secretary shall apply the provisions of  
8 such part E to such plan and such individuals so en-  
9 rolled in such plan.

10 “(b) NOTIFICATION REGARDING NONPARTICIPATION  
11 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health  
12 plan shall publicly disclose in a manner and in accordance  
13 with a process specified by the Secretary any election  
14 made under section 1197 of the Social Security Act by  
15 the plan to not participate in the Fair Price Negotiation  
16 Program under part E of title XI of such Act with respect  
17 to a selected drug (as defined in section 1192(c) of such  
18 Act) for which coverage is provided under such plan before  
19 the beginning of the plan year for which such election was  
20 made.”.

21 (ii) APPLICATION TO RETIREE AND  
22 CERTAIN SMALL GROUP HEALTH PLANS.—  
23 Section 9831(a)(2) of the Internal Revenue  
24 Code of 1986 is amended by inserting

1 “other than with respect to section 9826,”  
2 before “any group health plan”.

3 (iii) CLERICAL AMENDMENT.—The  
4 table of sections for subchapter B of chap-  
5 ter 100 of such Code is amended by add-  
6 ing at the end the following new item:

“Sec. 9826. Fair Price Negotiation Program and application of maximum fair prices.”.

7 (3) FAIR PRICE NEGOTIATION PROGRAM PRICES  
8 INCLUDED IN BEST PRICE AND AMP.—Section 1927  
9 of the Social Security Act (42 U.S.C. 1396r–8) is  
10 amended—

11 (A) in subsection (c)(1)(C)(ii)—

12 (i) in subclause (III), by striking at  
13 the end “; and”;

14 (ii) in subclause (IV), by striking at  
15 the end the period and inserting “; and”;  
16 and

17 (iii) by adding at the end the fol-  
18 lowing new subclause:

19 “(V) in the case of a rebate pe-  
20 riod and a covered outpatient drug  
21 that is a selected drug (as defined in  
22 section 1192(c)) during such rebate  
23 period, shall be inclusive of the price  
24 for such drug made available from the

1 manufacturer during the rebate period  
2 by reason of application of part E of  
3 title XI to any wholesaler, retailer,  
4 provider, health maintenance organi-  
5 zation, nonprofit entity, or govern-  
6 mental entity within the United  
7 States.”; and

8 (B) in subsection (k)(1)(B), by adding at  
9 the end the following new clause:

10 “(iii) CLARIFICATION.—Notwith-  
11 standing clause (i), in the case of a rebate  
12 period and a covered outpatient drug that  
13 is a selected drug (as defined in section  
14 1192(c)) during such rebate period, any  
15 reduction in price paid during the rebate  
16 period to the manufacturer for the drug by  
17 a wholesaler or retail community pharmacy  
18 described in subparagraph (A) by reason of  
19 application of part E of title XI shall be  
20 included in the average manufacturer price  
21 for the covered outpatient drug.”.

22 (4) FEHBP.—Section 8902 of title 5, United  
23 States Code, is amended by adding at the end the  
24 following:

1 “(p) A contract may not be made or a plan approved  
2 under this chapter with any carrier that has affirmatively  
3 elected, pursuant to section 1197 of the Social Security  
4 Act, not to participate in the Fair Price Negotiation Pro-  
5 gram established under section 1191 of such Act for any  
6 selected drug (as that term is defined in section 1192(c)  
7 of such Act).”.

8 (5) OPTION OF SECRETARY OF VETERANS AF-  
9 FAIRS TO PURCHASE COVERED DRUGS AT MAXIMUM  
10 FAIR PRICES.—Section 8126 of title 38, United  
11 States Code, is amended—

12 (A) in subsection (a)(2), by inserting “,  
13 subject to subsection (j),” after “may not ex-  
14 ceed”;

15 (B) in subsection (d), in the matter pre-  
16 ceding paragraph (1), by inserting “, subject to  
17 subsection (j)” after “for the procurement of  
18 the drug”; and

19 (C) by adding at the end the following new  
20 subsection:

21 “(j)(1) In the case of a covered drug that is a selected  
22 drug, for any year during the price applicability period for  
23 such drug, if the Secretary determines that the maximum  
24 fair price of such drug for such year is less than the price  
25 for such drug otherwise in effect pursuant to this section

1 (including after application of any reduction under sub-  
2 section (a)(2) and any discount under subsection (c)), at  
3 the option of the Secretary, in lieu of the maximum price  
4 (determined after application of the reduction under sub-  
5 section (a)(2) and any discount under subsection (c), as  
6 applicable) that would be permitted to be charged during  
7 such year for such drug pursuant to this section without  
8 application of this subsection, the maximum price per-  
9 mitted to be charged during such year for such drug pur-  
10 suant to this section shall be such maximum fair price for  
11 such drug and year.

12 “(2) For purposes of this subsection:

13 “(A) The term ‘maximum fair price’ means,  
14 with respect to a selected drug and year during the  
15 price applicability period for such drug, the max-  
16 imum fair price (as defined in section 1191(c)(2) of  
17 the Social Security Act) for such drug and year.

18 “(B) The term ‘negotiation eligible drug’ has  
19 the meaning given such term in section 1192(d)(1)  
20 of the Social Security Act.

21 “(C) The term ‘price applicability period’ has,  
22 with respect to a selected drug, the meaning given  
23 such term in section 1191(b)(2) of such Act.

1           “(D) The term ‘selected drug’ means, with re-  
2           spect to a year, a drug that is a selected drug under  
3           section 1192(c) of such Act for such year.”.

4   **SEC. 139002. SELECTED DRUG MANUFACTURER EXCISE TAX**  
5                   **IMPOSED DURING NONCOMPLIANCE PERI-**  
6                   **ODS.**

7           (a) IN GENERAL.—Subchapter E of chapter 32 of the  
8           Internal Revenue Code of 1986 is amended by adding at  
9           the end the following new section:

10   **“SEC. 4192. SELECTED DRUGS DURING NONCOMPLIANCE**  
11                   **PERIODS.**

12           “(a) IN GENERAL.—There is hereby imposed on the  
13           sale by the manufacturer, producer, or importer of any  
14           selected drug during a day described in subsection (b) a  
15           tax in an amount such that the applicable percentage is  
16           equal to the ratio of—

17                   “(1) such tax, divided by

18                   “(2) the sum of such tax and the price for  
19           which so sold.

20           “(b) NONCOMPLIANCE PERIODS.—A day is described  
21           in this subsection with respect to a selected drug if it is  
22           a day during one of the following periods:

23                   “(1) The period beginning on the June 16th  
24           immediately following the selected drug publication  
25           date and ending on the first date during which the

1 manufacturer of the drug has in place an agreement  
2 described in subsection (a) of section 1193 of the  
3 Social Security Act with respect to such drug.

4 “(2) The period beginning on the April 1st im-  
5 mediately following the June 16th described in para-  
6 graph (1) and ending on the first date during which  
7 the manufacturer of the drug has agreed to a max-  
8 imum fair price under such agreement.

9 “(3) In the case of a selected drug with respect  
10 to which the Secretary of Health and Human Serv-  
11 ices has specified a renegotiation period under such  
12 agreement, the period beginning on the first date  
13 after the last date of such renegotiation period and  
14 ending on the first date during which the manufac-  
15 turer of the drug has agreed to a renegotiated max-  
16 imum fair price under such agreement.

17 “(4) With respect to information that is re-  
18 quired to be submitted to the Secretary of Health  
19 and Human Services under such agreement, the pe-  
20 riod beginning on the date on which such Secretary  
21 certifies that such information is overdue and ending  
22 on the date that such information is so submitted.

23 “(5) In the case of a selected drug with respect  
24 to which a payment is due under subsection (c) of  
25 such section 1193, the period beginning on the date

1 on which the Secretary of Health and Human Serv-  
2 ices certifies that such payment is overdue and end-  
3 ing on the date that such payment is made in full.

4 “(c) APPLICABLE PERCENTAGE.—For purposes of  
5 this section, the term ‘applicable percentage’ means—

6 “(1) in the case of sales of a selected drug dur-  
7 ing the first 90 days described in subsection (b) with  
8 respect to such drug, 65 percent,

9 “(2) in the case of sales of such drug during  
10 the 91st day through the 180th day described in  
11 subsection (b) with respect to such drug, 75 percent,

12 “(3) in the case of sales of such drug during  
13 the 181st day through the 270th day described in  
14 subsection (b) with respect to such drug, 85 percent,  
15 and

16 “(4) in the case of sales of such drug during  
17 any subsequent day, 95 percent.

18 “(d) SELECTED DRUG.—For purposes of this sec-  
19 tion—

20 “(1) IN GENERAL.—The term ‘selected drug’  
21 means any selected drug (within the meaning of sec-  
22 tion 1192 of the Social Security Act) which is manu-  
23 factured or produced in the United States or entered  
24 into the United States for consumption, use, or  
25 warehousing.

1           “(2) UNITED STATES.—The term ‘United  
2 States’ has the meaning given such term by section  
3 4612(a)(4).

4           “(3) COORDINATION WITH RULES FOR POSSES-  
5 SIONS OF THE UNITED STATES.—Rules similar to  
6 the rules of paragraphs (2) and (4) of section  
7 4132(e) shall apply for purposes of this section.

8           “(e) OTHER DEFINITIONS.—For purposes of this  
9 section, the terms ‘selected drug publication date’ and  
10 ‘maximum fair price’ have the meaning given such terms  
11 in section 1191 of the Social Security Act.

12          “(f) ANTI-ABUSE RULE.—In the case of a sale which  
13 was timed for the purpose of avoiding the tax imposed by  
14 this section, the Secretary may treat such sale as occur-  
15 ring during a day described in subsection (b).”.

16          (b) NO DEDUCTION FOR EXCISE TAX PAYMENTS.—  
17 Section 275 of the Internal Revenue Code of 1986 is  
18 amended by adding “or by section 4192” before the period  
19 at the end of subsection (a)(6).

20          (c) CONFORMING AMENDMENTS.—

21                 (1) Section 4221(a) of the Internal Revenue  
22 Code of 1986 is amended by inserting “or 4192”  
23 after “section 4191”.

24                 (2) Section 6416(b)(2) of such Code is amend-  
25 ed by inserting “or 4192” after “section 4191”.

1 (d) CLERICAL AMENDMENTS.—

2 (1) The heading of subchapter E of chapter 32  
3 of the Internal Revenue Code of 1986 is amended by  
4 striking “**Medical Devices**” and inserting  
5 “**Other Medical Products**”.

6 (2) The table of subchapters for chapter 32 of  
7 such Code is amended by striking the item relating  
8 to subchapter E and inserting the following new  
9 item:

“SUBCHAPTER E. OTHER MEDICAL PRODUCTS”.

10 (3) The table of sections for subchapter E of  
11 chapter 32 of such Code is amended by adding at  
12 the end the following new item:

“Sec. 4192. Selected drugs during noncompliance periods.”.

13 (e) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to sales after the date of the enact-  
15 ment of this Act.

16 **SEC. 139003. FAIR PRICE NEGOTIATION IMPLEMENTATION**  
17 **FUND.**

18 (a) IN GENERAL.—There is hereby established a Fair  
19 Price Negotiation Implementation Fund (referred to in  
20 this section as the “Fund”). The Secretary of Health and  
21 Human Services may obligate and expend amounts in the  
22 Fund to carry out this part and parts 2 and 3 (and the  
23 amendments made by such parts).

1 (b) FUNDING.—There is authorized to be appro-  
2 priated, and there is hereby appropriated, out of any mon-  
3 ies in the Treasury not otherwise appropriated, to the  
4 Fund \$3,000,000,000, to remain available until expended,  
5 of which—

6 (1) \$600,000,000 shall become available on the  
7 date of the enactment of this Act;

8 (2) \$600,000,000 shall become available on Oc-  
9 tober 1, 2023;

10 (3) \$600,000,000 shall become available on Oc-  
11 tober 1, 2024;

12 (4) \$600,000,000 shall become available on Oc-  
13 tober 1, 2025; and

14 (5) \$600,000,000 shall become available on Oc-  
15 tober 1, 2026.

16 (c) SUPPLEMENT NOT SUPPLANT.—Any amounts  
17 appropriated pursuant to this section shall be in addition  
18 to any other amounts otherwise appropriated pursuant to  
19 any other provision of law.

1           **PART 2—PRESCRIPTION DRUG INFLATION**

2                           **REBATES**

3   **SEC. 139101. MEDICARE PART B REBATE BY MANUFACTUR-**  
4                           **ERS.**

5           (a) IN GENERAL.—Section 1834 of the Social Secu-  
6 rity Act (42 U.S.C. 1395m) is amended by adding at the  
7 end the following new subsection:

8           “(z) REBATE BY MANUFACTURERS FOR SINGLE  
9 SOURCE DRUGS WITH PRICES INCREASING FASTER  
10 THAN INFLATION.—

11                   “(1) REQUIREMENTS.—

12                           “(A) SECRETARIAL PROVISION OF INFOR-  
13 MATION.—Not later than 6 months after the  
14 end of each calendar quarter beginning on or  
15 after July 1, 2023, the Secretary shall, for each  
16 part B rebatable drug, report to each manufac-  
17 turer of such part B rebatable drug the fol-  
18 lowing for such calendar quarter:

19                                   “(i) Information on the total number  
20 of units of the billing and payment code  
21 described in subparagraph (A)(i) of para-  
22 graph (3) with respect to such drug and  
23 calendar quarter.

24                                   “(ii) Information on the amount (if  
25 any) of the excess average sales price in-  
26 crease described in subparagraph (A)(ii) of

1           such paragraph for such drug and calendar  
2           quarter.

3           “(iii) The rebate amount specified  
4           under such paragraph for such part B  
5           rebtable drug and calendar quarter.

6           “(B) MANUFACTURER REQUIREMENT.—  
7           For each calendar quarter beginning on or after  
8           July 1, 2023, the manufacturer of a part B  
9           rebtable drug shall, for such drug, not later  
10          than 30 days after the date of receipt from the  
11          Secretary of the information described in sub-  
12          paragraph (A) for such calendar quarter, pro-  
13          vide to the Secretary a rebate that is equal to  
14          the amount specified in paragraph (3) for such  
15          drug for such calendar quarter.

16          “(2) PART B REBATABLE DRUG DEFINED.—

17                 “(A) IN GENERAL.—In this subsection, the  
18                 term ‘part B rebatable drug’ means a single  
19                 source drug or biological (as defined in sub-  
20                 paragraph (D) of section 1847A(e)(6)), includ-  
21                 ing a biosimilar biological product (as defined  
22                 in subparagraph (H) of such section), payable  
23                 (if such drug were furnished to an individual  
24                 enrolled under this part) under this part, except

1           such term shall not include such a drug or bio-  
2           logical—

3                   “(i) if the average total allowed  
4                   charges under this part as determined by  
5                   the Secretary for a year per individual that  
6                   uses such a drug or biological, as deter-  
7                   mined by the Secretary, are less than, sub-  
8                   ject to subparagraph (B), \$100; or

9                   “(ii) that is a vaccine described in  
10                  subparagraph (A) or (B) of section  
11                  1861(s)(10).

12                 “(B) INCREASE.—The dollar amount ap-  
13                 plied under subparagraph (A)(i)—

14                   “(i) for 2024, shall be the dollar  
15                   amount specified under such subparagraph  
16                   for 2023, increased by the percentage in-  
17                   crease in the consumer price index for all  
18                   urban consumers (United States city aver-  
19                   age) for the 12-month period ending with  
20                   June of the previous year; and

21                   “(ii) for a subsequent year, shall be  
22                   the dollar amount specified in this clause  
23                   (or clause (i)) for the previous year, in-  
24                   creased by the percentage increase in the  
25                   consumer price index for all urban con-

1           sumers (United States city average) for  
2           the 12-month period ending with June of  
3           the previous year.

4           Any dollar amount specified under this sub-  
5           paragraph that is not a multiple of \$10 shall be  
6           rounded to the nearest multiple of \$10.

7           “(3) REBATE AMOUNT.—

8                   “(A) IN GENERAL.—For purposes of para-  
9                   graph (1), the amount specified in this para-  
10                   graph for a part B rebatable drug assigned to  
11                   a billing and payment code for a calendar quar-  
12                   ter is, subject to subparagraph (B) and para-  
13                   graph (4), the amount equal to the product  
14                   of—

15                           “(i) the total number of units, as de-  
16                           scribed in section 1847A(c)(1)(B), with re-  
17                           spect to such drug during the calendar  
18                           quarter; and

19                                   “(ii) the amount (if any) by which—

20   “(I) the payment amount under  
21   subparagraph (B) or (C) of section  
22   1847A(b)(1), as applicable, for such  
23   part B rebatable drug during the cal-  
24   endar quarter; exceeds

1                   “(II) the inflation-adjusted pay-  
2                   ment amount determined under sub-  
3                   paragraph (C) for such part B  
4                   rebtable drug during the calendar  
5                   quarter.

6                   “(B) EXCLUDED UNITS.—For purposes of  
7                   subparagraph (A)(i), the Secretary shall exclude  
8                   from the total number of units with respect to  
9                   a part B rebtable drug and calendar quarter  
10                  units of such part B rebtable drug for which  
11                  payment was made under a State plan under  
12                  title XIX (or waiver of such plan), as reported  
13                  by States under section 1927(b)(2)(A) for the  
14                  most recent rebate period.

15                  “(C) DETERMINATION OF INFLATION-AD-  
16                  JUSTED PAYMENT AMOUNT.—The inflation-ad-  
17                  justed payment amount determined under this  
18                  subparagraph for a part B rebtable drug for  
19                  a calendar quarter is—

20                  “(i) the payment amount for the bill-  
21                  ing and payment code for such drug in the  
22                  payment amount benchmark quarter (as  
23                  defined in subparagraph (D)); increased by

24                  “(ii) the percentage by which the re-  
25                  bate period CPI-U (as defined in subpara-

1 graph (F)) for the calendar quarter ex-  
2 ceeds the benchmark period CPI-U (as de-  
3 fined in subparagraph (E)).

4 “(D) PAYMENT AMOUNT BENCHMARK  
5 QUARTER.—The term ‘payment amount bench-  
6 mark quarter’ means the calendar quarter be-  
7 ginning January 1, 2016.

8 “(E) BENCHMARK PERIOD CPI-U.—The  
9 term ‘benchmark period CPI-U’ means the con-  
10 sumer price index for all urban consumers  
11 (United States city average) for July 2015.

12 “(F) REBATE PERIOD CPI-U.—The term  
13 ‘rebate period CPI-U’ means, with respect to a  
14 calendar quarter described in subparagraph  
15 (C), the greater of the benchmark period CPI-  
16 U and the consumer price index for all urban  
17 consumers (United States city average) for the  
18 first month of the calendar quarter that is two  
19 calendar quarters prior to such described cal-  
20 endar quarter.

21 “(4) SPECIAL TREATMENT OF CERTAIN DRUGS  
22 AND EXEMPTION.—

23 “(A) SUBSEQUENTLY APPROVED DRUGS.—  
24 Subject to subparagraph (B), in the case of a  
25 part B rebatable drug first approved or licensed

1 by the Food and Drug Administration after  
2 July 1, 2015, clause (i) of paragraph (3)(C)  
3 shall be applied as if the term ‘payment amount  
4 benchmark quarter’ were defined under para-  
5 graph (3)(D) as the third full calendar quarter  
6 after the day on which the drug was first mar-  
7 keted and clause (ii) of paragraph (3)(C) shall  
8 be applied as if the term ‘benchmark period  
9 CPI-U’ were defined under paragraph (3)(E)  
10 as if the reference to ‘July 2015’ under such  
11 paragraph were a reference to ‘the first month  
12 of the first full calendar quarter after the day  
13 on which the drug was first marketed’.

14 “(B) TIMELINE FOR PROVISION OF RE-  
15 BATES FOR SUBSEQUENTLY APPROVED  
16 DRUGS.—In the case of a part B rebatable drug  
17 first approved or licensed by the Food and  
18 Drug Administration after July 1, 2015, para-  
19 graph (1)(B) shall be applied as if the reference  
20 to ‘July 1, 2023’ under such paragraph were a  
21 reference to the later of the 6th full calendar  
22 quarter after the day on which the drug was  
23 first marketed or July 1, 2023.

24 “(C) EXEMPTION FOR SHORTAGES.—The  
25 Secretary may reduce or waive the rebate

1 amount under paragraph (1)(B) with respect to  
2 a part B rebatable drug that is described as  
3 currently in shortage on the shortage list in ef-  
4 fect under section 506E of the Federal Food,  
5 Drug, and Cosmetic Act or in the case of other  
6 exigent circumstances, as determined by the  
7 Secretary.

8 “(D) SELECTED DRUGS.—In the case of a  
9 part B rebatable drug that is a selected drug  
10 (as defined in section 1192(e)) for a price appli-  
11 cability period (as defined in section  
12 1191(b)(2))—

13 “(i) for calendar quarters during such  
14 period for which a maximum fair price (as  
15 defined in section 1191(c)(2)) for such  
16 drug has been determined and is applied  
17 under part E of title XI, the rebate  
18 amount under paragraph (1)(B) shall be  
19 waived; and

20 “(ii) in the case such drug is deter-  
21 mined (pursuant to such section 1192(e))  
22 to no longer be a selected drug, for each  
23 applicable year beginning after the price  
24 applicability period with respect to such  
25 drug, clause (i) of paragraph (3)(C) shall

1           be applied as if the term ‘payment amount  
2           benchmark quarter’ were defined under  
3           paragraph (3)(D) as the calendar quarter  
4           beginning January 1 of the last year be-  
5           ginning during such price applicability pe-  
6           riod with respect to such selected drug and  
7           clause (ii) of paragraph (3)(C) shall be ap-  
8           plied as if the term ‘benchmark period  
9           CPI-U’ were defined under paragraph  
10          (3)(E) as if the reference to ‘July 2015’  
11          under such paragraph were a reference to  
12          the July of the year preceding such last  
13          year.

14           “(5) APPLICATION TO BENEFICIARY COINSUR-  
15          ANCE.—In the case of a part B rebatable drug, if  
16          the payment amount under this part for a quarter  
17          exceeds the inflation adjusted payment for such  
18          quarter—

19           “(A) in computing the amount of any coin-  
20          surance applicable under this part to an indi-  
21          vidual to whom such drug is furnished, the  
22          computation of such coinsurance shall be based  
23          on the inflation-adjusted payment amount de-  
24          termined under paragraph (3)(C) for such part  
25          B rebatable drug; and

1           “(B) the amount of such coinsurance is  
2           equal to 20 percent of such inflation-adjusted  
3           payment amount so determined.

4           “(6) REBATE DEPOSITS.—Amounts paid as re-  
5           bates under paragraph (1)(B) shall be deposited into  
6           the Federal Supplementary Medical Insurance Trust  
7           Fund established under section 1841.

8           “(7) CIVIL MONEY PENALTY.—If a manufac-  
9           turer of a part B rebatable drug has failed to com-  
10          ply with the requirements under paragraph (1)(B)  
11          for such drug for a calendar quarter, the manufac-  
12          turer shall be subject to, in accordance with a proc-  
13          ess established by the Secretary pursuant to regula-  
14          tions, a civil money penalty in an amount equal to  
15          at least 125 percent of the amount specified in para-  
16          graph (3) for such drug for such calendar quarter.  
17          The provisions of section 1128A (other than sub-  
18          sections (a) (with respect to amounts of penalties or  
19          additional assessments) and (b)) shall apply to a  
20          civil money penalty under this paragraph in the  
21          same manner as such provisions apply to a penalty  
22          or proceeding under section 1128A(a).

23          “(8) APPLICATION TO MULTIPLE SOURCE  
24          DRUGS.—The Secretary may, pursuant to rule-  
25          making, apply the provisions of this subsection to

1 multiple source drugs (as defined in section  
2 1847A(c)(6)(C)), including, for purposes of deter-  
3 mining the rebate amount under paragraph (3), by  
4 calculating manufacturer-specific average sales  
5 prices for the benchmark period and the rebate pe-  
6 riod.”.

7 (b) AMOUNTS PAYABLE; COST-SHARING.—Section  
8 1833 of the Social Security Act (42 U.S.C. 1395l) is  
9 amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1)—

12 (i) in subparagraph (G), by inserting  
13 “, subject to subsection (i)(9),” after “the  
14 amounts paid”;

15 (ii) in subparagraph (S), by striking  
16 “with respect to” and inserting “subject to  
17 subparagraph (DD), with respect to”;

18 (iii) by striking “and (DD)” and in-  
19 serting “(EE)”; and

20 (iv) by inserting before the semicolon  
21 at the end the following: “, and (EE) with  
22 respect to a part B rebatable drug (as de-  
23 fined in paragraph (2) of section 1834(z))  
24 for which the payment amount for a cal-  
25 endar quarter under paragraph

1 (3)(A)(ii)(I) of such section for such quar-  
2 ter exceeds the inflation-adjusted payment  
3 under paragraph (3)(A)(ii)(II) of such sec-  
4 tion for such quarter, the amounts paid  
5 shall be the difference between (i) the pay-  
6 ment amount under paragraph  
7 (3)(A)(ii)(I) of such section for such drug,  
8 and (ii) 20 percent of the inflation-ad-  
9 justed payment amount under paragraph  
10 (3)(A)(ii)(II) of such section for such  
11 drug”; and

12 (B) by adding at the end of the flush left  
13 matter following paragraph (9), the following:

14 “For purposes of applying paragraph (1)(EE), sub-  
15 sections (i)(9) and (t)(8)(F), and section 1834(z)(5), the  
16 Secretary shall make such estimates and use such data  
17 as the Secretary determines appropriate, and may do so  
18 by program instruction or otherwise.”;

19 (2) in subsection (i), by adding at the end the  
20 following new paragraph:

21 “(9) In the case of a part B rebatable drug (as de-  
22 fined in paragraph (2) of section 1834(z)) for which pay-  
23 ment under this subsection is not packaged into a payment  
24 for a covered OPD service (as defined in subsection  
25 (t)(1)(B)) (or group of services) furnished on or after July

1 1, 2023, under the system under this subsection, in lieu  
2 of calculation of coinsurance and the amount of payment  
3 otherwise applicable under this subsection, the provisions  
4 of section 1834(z)(5), paragraph (1)(EE) of subsection  
5 (a), and the flush left matter following paragraph (9) of  
6 subsection (a), shall, as determined appropriate by the  
7 Secretary, apply under this subsection in the same manner  
8 as such provisions of section 1834(z)(5) and subsection  
9 (a) apply under such section and subsection.”; and

10 (3) in subsection (t)(8), by adding at the end  
11 the following new subparagraph:

12 “(F) PART B REBATABLE DRUGS.—In the  
13 case of a part B rebatable drug (as defined in  
14 paragraph (2) of section 1834(z)) for which  
15 payment under this part is not packaged into a  
16 payment for a service furnished on or after July  
17 1, 2023, under the system under this sub-  
18 section, in lieu of calculation of coinsurance and  
19 the amount of payment otherwise applicable  
20 under this subsection, the provisions of section  
21 1834(z)(5), paragraph (1)(EE) of subsection  
22 (a), and the flush left matter following para-  
23 graph (9) of subsection (a), shall, as determined  
24 appropriate by the Secretary, apply under this  
25 subsection in the same manner as such provi-



1 **“SEC. 1860D–14B. MANUFACTURER REBATE FOR CERTAIN**  
2 **DRUGS WITH PRICES INCREASING FASTER**  
3 **THAN INFLATION.**

4 “(a) REQUIREMENTS.—

5 “(1) SECRETARIAL PROVISION OF INFORMA-  
6 TION.—Not later than 9 months after the end of  
7 each applicable year (as defined in subsection  
8 (g)(7)), the Secretary shall, for each part D  
9 rebatable drug, report to each manufacturer of such  
10 part D rebatable drug the following for such year:

11 “(A) Information on the amount (if any)  
12 of the excess average manufacturer price in-  
13 crease described in subsection (b)(1)(B) for  
14 each dosage form and strength with respect to  
15 such drug and year.

16 “(B) The rebate amount specified under  
17 subsection (b) for each dosage form and  
18 strength with respect to such drug and year.

19 “(2) MANUFACTURER REQUIREMENTS.—For  
20 each applicable year, the manufacturer of a part D  
21 rebatable drug, for each dosage form and strength  
22 with respect to such drug, not later than 30 days  
23 after the date of receipt from the Secretary of the  
24 information described in paragraph (1) for such  
25 year, shall provide to the Secretary a rebate that is  
26 equal to the amount specified in subsection (b) for

1 such dosage form and strength with respect to such  
2 drug for such year.

3 “(b) REBATE AMOUNT.—

4 “(1) IN GENERAL.—

5 “(A) CALCULATION.—For purposes of this  
6 section, the amount specified in this subsection  
7 for a dosage form and strength with respect to  
8 a part D rebatable drug and applicable year is,  
9 subject to subparagraph (B) of this paragraph  
10 and subparagraphs (B) and (C) of paragraph  
11 (5), the amount equal to the product of—

12 “(i) the total number of units that are  
13 used to calculate the average manufacturer  
14 price of such dosage form and strength  
15 with respect to such part D rebatable  
16 drug, as reported by the manufacturer of  
17 such drug under section 1927 for each re-  
18 cent rebate period under such section, with  
19 respect to such year, under such section  
20 for which such information is available;  
21 and

22 “(ii) the amount (if any) by which—

23 “(I) the annual manufacturer  
24 price (as determined in paragraph  
25 (2)) paid for such dosage form and

1 strength with respect to such part D  
2 rebatable drug for the year; exceeds

3 “(II) the inflation-adjusted pay-  
4 ment amount determined under para-  
5 graph (3) for such dosage form and  
6 strength with respect to such part D  
7 rebatable drug for the year.

8 “(B) EXCLUDED UNITS.—For purposes of  
9 subparagraph (A)(i), the Secretary shall exclude  
10 from the total number of units for a dosage  
11 form and strength with respect to a part D  
12 rebatable drug and the most recent rebate pe-  
13 riod under section 1927, with respect to an ap-  
14 plicable year, for which such information is  
15 available, units of each dosage form and  
16 strength of such part D rebatable drug, for  
17 which payment was made under a State plan  
18 under title XIX (or waiver of such plan), as re-  
19 ported by States under section 1927(b)(2)(A)  
20 for such rebate period.

21 “(2) DETERMINATION OF ANNUAL MANUFAC-  
22 Turer PRICE.—The annual manufacturer price de-  
23 termined under this paragraph for a dosage form  
24 and strength, with respect to a part D rebatable

1 drug and an applicable year, is the sum of the prod-  
2 ucts of—

3 “(A) the average manufacturer price (as  
4 defined in subsection (g)(6)) of such dosage  
5 form and strength, as calculated for a unit of  
6 such drug, with respect to each of the calendar  
7 quarters of such year; and

8 “(B) the ratio of—

9 “(i) the total number of units of such  
10 dosage form and strength reported for the  
11 purpose of calculating average manufac-  
12 turer price under section 1927 during each  
13 such calendar quarter of such year; to

14 “(ii) the total number of units of such  
15 dosage form and strength reported for the  
16 purpose of calculating average manufac-  
17 turer price under section 1927 during such  
18 year, as determined by the Secretary.

19 “(3) DETERMINATION OF INFLATION-ADJUSTED  
20 PAYMENT AMOUNT.—The inflation-adjusted payment  
21 amount determined under this paragraph for a dos-  
22 age form and strength with respect to a part D  
23 rebatable drug for an applicable year, subject to sub-  
24 paragraphs (A) and (D) of paragraph (5), is—

1           “(A) the benchmark year manufacturer  
2 price determined under paragraph (4) for such  
3 dosage form and strength with respect to such  
4 drug and year; increased by

5           “(B) the percentage by which the applica-  
6 ble year CPI-U (as defined in subsection  
7 (g)(5)) for the year exceeds the benchmark pe-  
8 riod CPI-U (as defined in subsection (g)(4)).

9           “(4) DETERMINATION OF BENCHMARK YEAR  
10 MANUFACTURER PRICE.—The benchmark year man-  
11 ufacturer price determined under this paragraph for  
12 a dosage form and strength, with respect to a part  
13 D rebatable drug and an applicable year, is the sum  
14 of the products of—

15           “(A) the average manufacturer price (as  
16 defined in subsection (g)(6)) of such dosage  
17 form and strength, as calculated for a unit of  
18 such drug, with respect to each of the calendar  
19 quarters of the payment amount benchmark  
20 year (as defined in subsection (g)(3)); and

21           “(B) the ratio of—

22           “(i) the total number of units of such  
23 dosage form and strength dispensed during  
24 each such calendar quarter of such pay-  
25 ment amount benchmark year; to

1                   “(ii) the total number of units of such  
2                   dosage form and strength dispensed during  
3                   such payment amount benchmark year.

4                   “(5) SPECIAL TREATMENT OF CERTAIN DRUGS  
5                   AND EXEMPTION.—

6                   “(A) SUBSEQUENTLY APPROVED DRUGS.—

7                   In the case of a part D rebatable drug first ap-  
8                   proved or licensed by the Food and Drug Ad-  
9                   ministration after January 1, 2016, subpara-  
10                  graphs (A) and (B) of paragraph (4) shall be  
11                  applied as if the term ‘payment amount bench-  
12                  mark year’ were defined under subsection  
13                  (g)(3) as the first calendar year beginning after  
14                  the day on which the drug was first marketed  
15                  by any manufacturer and subparagraph (B) of  
16                  paragraph (3) shall be applied as if the term  
17                  ‘benchmark period CPI-U’ were defined under  
18                  subsection (g)(4) as if the reference to ‘January  
19                  2016’ under such subsection were a reference to  
20                  ‘January of the first year beginning after the  
21                  date on which the drug was first marketed by  
22                  any manufacturer’.

23                  “(B) EXEMPTION FOR SHORTAGES.—The  
24                  Secretary may reduce or waive the rebate under  
25                  paragraph (1) with respect to a part D

1 rebatable drug that is described as currently in  
2 shortage on the shortage list in effect under  
3 section 506E of the Federal Food, Drug, and  
4 Cosmetic Act or in the case of other exigent cir-  
5 cumstances, as determined by the Secretary.

6 “(C) TREATMENT OF NEW FORMULA-  
7 TIONS.—

8 “(i) IN GENERAL.—In the case of a  
9 part D rebatable drug that is a line exten-  
10 sion of a part D rebatable drug that is an  
11 oral solid dosage form, the Secretary shall  
12 establish a formula for determining the  
13 amount specified in this subsection with  
14 respect to such part D rebatable drug and  
15 an applicable year with consideration of  
16 the original part D rebatable drug.

17 “(ii) LINE EXTENSION DEFINED.—In  
18 this subparagraph, the term ‘line exten-  
19 sion’ means, with respect to a part D  
20 rebatable drug, a new formulation of the  
21 drug, such as an extended release formula-  
22 tion, but does not include an abuse-deter-  
23 rent formulation of the drug (as deter-  
24 mined by the Secretary), regardless of

1           whether such abuse-deterrent formulation  
2           is an extended release formulation.

3           “(D) SELECTED DRUGS.—In the case of a  
4           part D rebatable drug that is a selected drug  
5           (as defined in section 1192(c)) for a price appli-  
6           cability period (as defined in section  
7           1191(b)(2))—

8                   “(i) for plan years during such period  
9                   for which a maximum fair price (as defined  
10                  in section 1191(c)(2)) for such drug has  
11                  been determined and is applied under part  
12                  E of title XI, the rebate under subsection  
13                  (a)(1)(B) shall be waived; and

14                   “(ii) in the case such drug is deter-  
15                  mined (pursuant to such section 1192(c))  
16                  to no longer be a selected drug, for each  
17                  applicable year beginning after the price  
18                  applicability period with respect to such  
19                  drug, subparagraphs (A) and (B) of para-  
20                  graph (4) shall be applied as if the term  
21                  ‘payment amount benchmark year’ were  
22                  defined under subsection (g)(3) as the last  
23                  year beginning during such price applica-  
24                  bility period with respect to such selected  
25                  drug and subparagraph (B) of paragraph

1 (3) shall be applied as if the term ‘bench-  
2 mark period CPI-U’ were defined under  
3 subsection (g)(4) as if the reference to  
4 ‘January 2016’ under such subsection were  
5 a reference to January of the last year be-  
6 ginning during such price applicability pe-  
7 riod with respect to such drug.

8 “(c) REBATE DEPOSITS.—Amounts paid as rebates  
9 under subsection (b) shall be deposited into the Medicare  
10 Prescription Drug Account in the Federal Supplementary  
11 Medical Insurance Trust Fund established under section  
12 1841.

13 “(d) INFORMATION.—For purposes of carrying out  
14 this section, the Secretary shall use information submitted  
15 by manufacturers under section 1927(b)(3) and informa-  
16 tion submitted by States under section 1927(b)(2)(A).

17 “(e) CIVIL MONEY PENALTY.—If a manufacturer of  
18 a part D rebatable drug has failed to comply with the re-  
19 quirement under subsection (a)(1)(B) with respect to such  
20 drug for an applicable year, the manufacturer shall be  
21 subject to, in accordance with a process established by the  
22 Secretary pursuant to regulations, a civil money penalty  
23 in an amount equal to 125 percent of the amount specified  
24 in subsection (b) for such drug for such year. The provi-  
25 sions of section 1128A (other than subsections (a) (with

1 respect to amounts of penalties or additional assessments)  
2 and (b)) shall apply to a civil money penalty under this  
3 subsection in the same manner as such provisions apply  
4 to a penalty or proceeding under section 1128A(a).

5 “(f) JUDICIAL REVIEW.—There shall be no judicial  
6 review of the following:

7 “(1) The determination of units under this sec-  
8 tion.

9 “(2) The determination of whether a drug is a  
10 part D rebatable drug under this section.

11 “(3) The calculation of the rebate amount  
12 under this section.

13 “(g) DEFINITIONS.—In this section:

14 “(1) PART D REBATABLE DRUG DEFINED.—

15 “(A) IN GENERAL.—The term ‘part D  
16 rebatable drug’ means a drug or biological that  
17 would (without application of this section) be a  
18 covered part D drug, except such term shall,  
19 with respect to an applicable year, not include  
20 such a drug or biological if the average annual  
21 total cost under this part for such year per in-  
22 dividual who uses such a drug or biological, as  
23 determined by the Secretary, is less than, sub-  
24 ject to subparagraph (B), \$100, as determined  
25 by the Secretary using the most recent data

1 available or, if data is not available, as esti-  
2 mated by the Secretary.

3 “(B) INCREASE.—The dollar amount ap-  
4 plied under subparagraph (A)—

5 “(i) for 2024, shall be the dollar  
6 amount specified under such subparagraph  
7 for 2023, increased by the percentage in-  
8 crease in the consumer price index for all  
9 urban consumers (United States city aver-  
10 age) for the 12-month period beginning  
11 with January of 2023; and

12 “(ii) for a subsequent year, shall be  
13 the dollar amount specified in this sub-  
14 paragraph for the previous year, increased  
15 by the percentage increase in the consumer  
16 price index for all urban consumers  
17 (United States city average) for the 12-  
18 month period beginning with January of  
19 the previous year.

20 Any dollar amount specified under this sub-  
21 paragraph that is not a multiple of \$10 shall be  
22 rounded to the nearest multiple of \$10.

23 “(2) UNIT DEFINED.—The term ‘unit’ means,  
24 with respect to a part D rebatable drug, the lowest  
25 identifiable quantity (such as a capsule or tablet,

1 milligram of molecules, or grams) of the part D  
2 rebatable drug, including data reported under sec-  
3 tion 1927.

4 “(3) PAYMENT AMOUNT BENCHMARK YEAR.—  
5 The term ‘payment amount benchmark year’ means  
6 the year beginning January 1, 2016.

7 “(4) BENCHMARK PERIOD CPI–U.—The term  
8 ‘benchmark period CPI–U’ means the consumer  
9 price index for all urban consumers (United States  
10 city average) for January 2016.

11 “(5) APPLICABLE YEAR CPI–U.—The term ‘ap-  
12 plicable year CPI–U’ means, with respect to an ap-  
13 plicable year, the consumer price index for all urban  
14 consumers (United States city average) for January  
15 of such year.

16 “(6) AVERAGE MANUFACTURER PRICE.—The  
17 term ‘average manufacturer price’ has the meaning,  
18 with respect to a part D rebatable drug of a manu-  
19 facturer, given such term in section 1927(k)(1), with  
20 respect to a covered outpatient drug of a manufac-  
21 turer for a rebate period under section 1927.

22 “(7) APPLICABLE YEAR.—The term ‘applicable  
23 year’ means a year beginning with 2023.”.

24 (b) CONFORMING AMENDMENTS.—

1           (1) TO PART B ASP CALCULATION.—Section  
2           1847A(c)(3) of the Social Security Act (42 U.S.C.  
3           1395w-3a(c)(3)), as amended by section  
4           139101(c)(1), is further amended by striking “sec-  
5           tion 1927 or section 1834(z)” and inserting “section  
6           1927, section 1834(z), or section 1860D-14B”.

7           (2) EXCLUDING PART D DRUG INFLATION RE-  
8           BATE FROM BEST PRICE.—Section  
9           1927(c)(1)(C)(ii)(I) of the Social Security Act (42  
10          U.S.C. 1396r-8(c)(1)(C)(ii)(I)), as amended by sec-  
11          tion 139101(c)(2), is further amended by striking  
12          “or section 1834(z)” and inserting “, section  
13          1834(z), or section 1860D-14B”.

14          (3) COORDINATION WITH MEDICAID REBATE IN-  
15          FORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i)  
16          of the Social Security Act (42 U.S.C. 1396r-  
17          8(b)(3)(D)(i)), as amended by section 139101(c)(3),  
18          is further amended by striking “or section 1834(z)”  
19          and inserting “, section 1834(z), or section 1860D-  
20          14B”.

1 **PART 3—PART D IMPROVEMENTS AND MAXIMUM**  
2 **OUT-OF-POCKET CAP FOR MEDICARE BENE-**  
3 **FICIARIES**

4 **SEC. 139201. MEDICARE PART D BENEFIT REDESIGN.**

5 (a) BENEFIT STRUCTURE REDESIGN.—Section  
6 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–  
7 102(b)) is amended—

8 (1) in paragraph (2)—

9 (A) in subparagraph (A), in the matter  
10 preceding clause (i), by inserting “for a year  
11 preceding 2024 and for costs above the annual  
12 deductible specified in paragraph (1) and up to  
13 the annual out-of-pocket threshold specified in  
14 paragraph (4)(B) for 2024 and each subsequent  
15 year” after “paragraph (3)”;

16 (B) in subparagraph (C)—

17 (i) in clause (i), in the matter pre-  
18 ceding subclause (I), by inserting “for a  
19 year preceding 2024,” after “paragraph  
20 (4),”; and

21 (ii) in clause (ii)(III), by striking  
22 “and each subsequent year” and inserting  
23 “through 2023”; and

24 (C) in subparagraph (D)—

25 (i) in clause (i)—

1 (I) in the matter preceding sub-  
2 clause (I), by inserting “for a year  
3 preceding 2024,” after “paragraph  
4 (4),”; and

5 (II) in subclause (I)(bb), by  
6 striking “a year after 2018” and in-  
7 serting “each of years 2018 through  
8 2023”; and

9 (ii) in clause (ii)(V), by striking  
10 “2019 and each subsequent year” and in-  
11 serting “each of years 2019 through  
12 2023”;

13 (2) in paragraph (3)(A)—

14 (A) in the matter preceding clause (i), by  
15 inserting “for a year preceding 2024,” after  
16 “and (4),”; and

17 (B) in clause (ii), by striking “for a subse-  
18 quent year” and inserting “for each of years  
19 2007 through 2023”; and

20 (3) in paragraph (4)—

21 (A) in subparagraph (A)—

22 (i) in clause (i)—

23 (I) by redesignating subclauses  
24 (I) and (II) as items (aa) and (bb),  
25 respectively, and moving the margin

1 of each such redesignated item 2 ems  
2 to the right;

3 (II) in the matter preceding item  
4 (aa), as redesignated by subclause (I),  
5 by striking “is equal to the greater  
6 of—” and inserting “is equal to—

7 “(I) for a year preceding 2024,  
8 the greater of—”;

9 (III) by striking the period at the  
10 end of item (bb), as redesignated by  
11 subclause (I), and inserting “; and”;  
12 and

13 (IV) by adding at the end the fol-  
14 lowing:

15 “(II) for 2024 and each suc-  
16 ceeding year, \$0.”; and

17 (ii) in clause (ii), by striking “clause  
18 (i)(I)” and inserting “clause (i)(I)(aa)”;

19 (B) in subparagraph (B)—

20 (i) in clause (i)—

21 (I) in subclause (V), by striking  
22 “or” at the end;

23 (II) in subclause (VI)—

24 (aa) by striking “for a sub-  
25 sequent year” and inserting “for

1 each of years 2021 through  
2 2023”; and

3 (bb) by striking the period  
4 at the end and inserting a semi-  
5 colon; and

6 (III) by adding at the end the  
7 following new subclauses:

8 “(VII) for 2024, is equal to  
9 \$2,000; or

10 “(VIII) for a subsequent year, is  
11 equal to the amount specified in this  
12 subparagraph for the previous year,  
13 increased by the annual percentage in-  
14 crease described in paragraph (6) for  
15 the year involved.”; and

16 (ii) in clause (ii), by striking “clause  
17 (i)(II)” and inserting “clause (i)”;

18 (C) in subparagraph (C)(i), by striking  
19 “and for amounts” and inserting “and, for a  
20 year preceding 2024, for amounts”; and

21 (D) in subparagraph (E), by striking “In  
22 applying” and inserting “For each of years  
23 2011 through 2023, in applying”.

24 (b) DECREASING REINSURANCE PAYMENT  
25 AMOUNT.—Section 1860D–15(b)(1) of the Social Security

1 Act (42 U.S.C. 1395w–115(b)(1)) is amended by inserting  
2 after “80 percent” the following: “(or, with respect to a  
3 coverage year after 2023, 20 percent)”.

4 (c) MANUFACTURER DISCOUNT PROGRAM.—

5 (1) IN GENERAL.—Part D of title XVIII of the  
6 Social Security Act (42 U.S.C. 1395w–101 et seq.),  
7 as amended by section 139102, is further amended  
8 by inserting after section 1860D–14B the following  
9 new section:

10 **“SEC. 1860D–14C. MANUFACTURER DISCOUNT PROGRAM.**

11 “(a) ESTABLISHMENT.—The Secretary shall estab-  
12 lish a manufacturer discount program (in this section re-  
13 ferred to as the ‘program’). Under the program, the Sec-  
14 retary shall enter into agreements described in subsection  
15 (b) with manufacturers and provide for the performance  
16 of the duties described in subsection (c). The Secretary  
17 shall establish a model agreement for use under the pro-  
18 gram by not later than January 1, 2023, in consultation  
19 with manufacturers, and allow for comment on such model  
20 agreement.

21 “(b) TERMS OF AGREEMENT.—

22 “(1) IN GENERAL.—

23 “(A) AGREEMENT.—An agreement under  
24 this section shall require the manufacturer to  
25 provide applicable beneficiaries access to dis-

1 counted prices for applicable drugs of the man-  
2 ufacturer that are dispensed on or after Janu-  
3 ary 1, 2024.

4 “(B) PROVISION OF DISCOUNTED PRICES  
5 AT THE POINT-OF-SALE.—The discounted prices  
6 described in subparagraph (A) shall be provided  
7 to the applicable beneficiary at the pharmacy or  
8 by the mail order service at the point-of-sale of  
9 an applicable drug.

10 “(C) TIMING OF AGREEMENT.—

11 “(i) SPECIAL RULE FOR 2024.—In  
12 order for an agreement with a manufac-  
13 turer to be in effect under this section with  
14 respect to the period beginning on January  
15 1, 2024, and ending on December 31,  
16 2024, the manufacturer shall enter into  
17 such agreement not later than 30 days  
18 after the date of the establishment of a  
19 model agreement under subsection (a).

20 “(ii) 2025 AND SUBSEQUENT  
21 YEARS.—In order for an agreement with a  
22 manufacturer to be in effect under this  
23 section with respect to plan year 2025 or  
24 a subsequent plan year, the manufacturer  
25 shall enter into such agreement (or such

1 agreement shall be renewed under para-  
2 graph (4)(A)) not later than January 30 of  
3 the preceding year.

4 “(2) PROVISION OF APPROPRIATE DATA.—Each  
5 manufacturer with an agreement in effect under this  
6 section shall collect and have available appropriate  
7 data, as determined by the Secretary, to ensure that  
8 it can demonstrate to the Secretary compliance with  
9 the requirements under the program.

10 “(3) COMPLIANCE WITH REQUIREMENTS FOR  
11 ADMINISTRATION OF PROGRAM.—Each manufac-  
12 turer with an agreement in effect under this section  
13 shall comply with requirements imposed by the Sec-  
14 retary or a third party with a contract under sub-  
15 section (d)(3), as applicable, for purposes of admin-  
16 istering the program, including any determination  
17 under subparagraph (A) of subsection (c)(1) or pro-  
18 cedures established under such subsection (c)(1).

19 “(4) LENGTH OF AGREEMENT.—

20 “(A) IN GENERAL.—An agreement under  
21 this section shall be effective for an initial pe-  
22 riod of not less than 12 months and shall be  
23 automatically renewed for a period of not less  
24 than 1 year unless terminated under subpara-  
25 graph (B).

1 “(B) TERMINATION.—

2 “(i) BY THE SECRETARY.—The Sec-  
3 retary may provide for termination of an  
4 agreement under this section for a knowing  
5 and willful violation of the requirements of  
6 the agreement or other good cause shown.  
7 Such termination shall not be effective ear-  
8 lier than 30 days after the date of notice  
9 to the manufacturer of such termination.  
10 The Secretary shall provide, upon request,  
11 a manufacturer with a hearing concerning  
12 such a termination, and such hearing shall  
13 take place prior to the effective date of the  
14 termination with sufficient time for such  
15 effective date to be repealed if the Sec-  
16 retary determines appropriate.

17 “(ii) BY A MANUFACTURER.—A man-  
18 ufacturer may terminate an agreement  
19 under this section for any reason. Any  
20 such termination shall be effective, with re-  
21 spect to a plan year—

22 “(I) if the termination occurs be-  
23 fore January 30 of a plan year, as of  
24 the day after the end of the plan year;  
25 and

1                   “(II) if the termination occurs on  
2                   or after January 30 of a plan year, as  
3                   of the day after the end of the suc-  
4                   ceeding plan year.

5                   “(iii) EFFECTIVENESS OF TERMI-  
6                   NATION.—Any termination under this sub-  
7                   paragraph shall not affect discounts for  
8                   applicable drugs of the manufacturer that  
9                   are due under the agreement before the ef-  
10                  fective date of its termination.

11                  “(iv) NOTICE TO THIRD PARTY.—The  
12                  Secretary shall provide notice of such ter-  
13                  mination to a third party with a contract  
14                  under subsection (d)(3) within not less  
15                  than 30 days before the effective date of  
16                  such termination.

17                  “(c) DUTIES DESCRIBED.—The duties described in  
18                  this subsection are the following:

19                  “(1) ADMINISTRATION OF PROGRAM.—Admin-  
20                  istering the program, including—

21                         “(A) the determination of the amount of  
22                         the discounted price of an applicable drug of a  
23                         manufacturer;

24                         “(B) the establishment of procedures  
25                         under which discounted prices are provided to

1 applicable beneficiaries at pharmacies or by  
2 mail order service at the point-of-sale of an ap-  
3 plicable drug;

4 “(C) the establishment of procedures to  
5 ensure that, not later than the applicable num-  
6 ber of calendar days after the dispensing of an  
7 applicable drug by a pharmacy or mail order  
8 service, the pharmacy or mail order service is  
9 reimbursed for an amount equal to the dif-  
10 ference between—

11 “(i) the negotiated price of the appli-  
12 cable drug; and

13 “(ii) the discounted price of the appli-  
14 cable drug;

15 “(D) the establishment of procedures to  
16 ensure that the discounted price for an applica-  
17 ble drug under this section is applied before any  
18 coverage or financial assistance under other  
19 health benefit plans or programs that provide  
20 coverage or financial assistance for the pur-  
21 chase or provision of prescription drug coverage  
22 on behalf of applicable beneficiaries as the Sec-  
23 retary may specify; and

24 “(E) providing a reasonable dispute resolu-  
25 tion mechanism to resolve disagreements be-

1           tween manufacturers, applicable beneficiaries,  
2           and the third party with a contract under sub-  
3           section (d)(3).

4           “(2) MONITORING COMPLIANCE.—

5                 “(A) IN GENERAL.—The Secretary shall  
6           monitor compliance by a manufacturer with the  
7           terms of an agreement under this section.

8                 “(B) NOTIFICATION.—If a third party  
9           with a contract under subsection (d)(3) deter-  
10          mines that the manufacturer is not in compli-  
11          ance with such agreement, the third party shall  
12          notify the Secretary of such noncompliance for  
13          appropriate enforcement under subsection (e).

14           “(3) COLLECTION OF DATA FROM PRESCRIP-  
15          TION DRUG PLANS AND MA–PD PLANS.—The Sec-  
16          retary may collect appropriate data from prescrip-  
17          tion drug plans and MA–PD plans in a timeframe  
18          that allows for discounted prices to be provided for  
19          applicable drugs under this section.

20           “(d) ADMINISTRATION.—

21                 “(1) IN GENERAL.—Subject to paragraph (2),  
22          the Secretary shall provide for the implementation of  
23          this section, including the performance of the duties  
24          described in subsection (c).

1           “(2) LIMITATION.—In providing for the imple-  
2           mentation of this section, the Secretary shall not re-  
3           ceive or distribute any funds of a manufacturer  
4           under the program.

5           “(3) CONTRACT WITH THIRD PARTIES.—The  
6           Secretary shall enter into a contract with 1 or more  
7           third parties to administer the requirements estab-  
8           lished by the Secretary in order to carry out this  
9           section. At a minimum, the contract with a third  
10          party under the preceding sentence shall require  
11          that the third party—

12                 “(A) receive and transmit information be-  
13                 tween the Secretary, manufacturers, and other  
14                 individuals or entities the Secretary determines  
15                 appropriate;

16                 “(B) receive, distribute, or facilitate the  
17                 distribution of funds of manufacturers to ap-  
18                 propriate individuals or entities in order to  
19                 meet the obligations of manufacturers under  
20                 agreements under this section;

21                 “(C) provide adequate and timely informa-  
22                 tion to manufacturers, consistent with the  
23                 agreement with the manufacturer under this  
24                 section, as necessary for the manufacturer to  
25                 fulfill its obligations under this section; and

1           “(D) permit manufacturers to conduct  
2           periodic audits, directly or through contracts, of  
3           the data and information used by the third  
4           party to determine discounts for applicable  
5           drugs of the manufacturer under the program.

6           “(4) PERFORMANCE REQUIREMENTS.—The  
7           Secretary shall establish performance requirements  
8           for a third party with a contract under paragraph  
9           (3) and safeguards to protect the independence and  
10          integrity of the activities carried out by the third  
11          party under the program under this section.

12          “(5) IMPLEMENTATION.—The Secretary may  
13          implement the program under this section by pro-  
14          gram instruction or otherwise.

15          “(6) ADMINISTRATION.—Chapter 35 of title 44,  
16          United States Code, shall not apply to the program  
17          under this section.

18          “(e) ENFORCEMENT.—

19                 “(1) AUDITS.—Each manufacturer with an  
20                 agreement in effect under this section shall be sub-  
21                 ject to periodic audit by the Secretary.

22                 “(2) CIVIL MONEY PENALTY.—

23                         “(A) IN GENERAL.—The Secretary may  
24                         impose a civil money penalty on a manufacturer  
25                         that fails to provide applicable beneficiaries dis-

1 counts for applicable drugs of the manufacturer  
2 in accordance with such agreement for each  
3 such failure in an amount the Secretary deter-  
4 mines is equal to the sum of—

5 “(i) the amount that the manufac-  
6 turer would have paid with respect to such  
7 discounts under the agreement, which will  
8 then be used to pay the discounts which  
9 the manufacturer had failed to provide;  
10 and

11 “(ii) 25 percent of such amount.

12 “(B) APPLICATION.—The provisions of  
13 section 1128A (other than subsections (a) and  
14 (b)) shall apply to a civil money penalty under  
15 this paragraph in the same manner as such  
16 provisions apply to a penalty or proceeding  
17 under section 1128A(a).

18 “(f) CLARIFICATION REGARDING AVAILABILITY OF  
19 OTHER COVERED PART D DRUGS.—Nothing in this sec-  
20 tion shall prevent an applicable beneficiary from pur-  
21 chasing a covered part D drug that is not an applicable  
22 drug (including a generic drug or a drug that is not on  
23 the formulary of the prescription drug plan or MA–PD  
24 plan that the applicable beneficiary is enrolled in).

25 “(g) DEFINITIONS.—In this section:

1           “(1) APPLICABLE BENEFICIARY.—The term  
2           ‘applicable beneficiary’ means an individual who, on  
3           the date of dispensing a covered part D drug—

4                   “(A) is enrolled in a prescription drug plan  
5                   or an MA–PD plan;

6                   “(B) is not enrolled in a qualified retiree  
7                   prescription drug plan; and

8                   “(C) has incurred costs, as determined in  
9                   accordance with section 1860D–2(b)(4)(C), for  
10                  covered part D drugs in the year that exceed  
11                  the annual deductible with respect to such indi-  
12                  vidual for such year, as specified in section  
13                  1860D–2(b)(1), section 1860D–14(a)(1)(B), or  
14                  section 1860D–14(a)(2)(B), as applicable.

15           “(2) APPLICABLE DRUG.—The term ‘applicable  
16           drug’, with respect to an applicable beneficiary—

17                   “(A) means a covered part D drug—

18                           “(i) approved under a new drug appli-  
19                           cation under section 505(c) of the Federal  
20                           Food, Drug, and Cosmetic Act or, in the  
21                           case of a biologic product, licensed under  
22                           section 351 of the Public Health Service  
23                           Act; and

24                           “(ii)(I) if the PDP sponsor of the pre-  
25                           scription drug plan or the MA organization

1 offering the MA–PD plan uses a for-  
2 mulary, which is on the formulary of the  
3 prescription drug plan or MA–PD plan  
4 that the applicable beneficiary is enrolled  
5 in;

6 “(II) if the PDP sponsor of the pre-  
7 scription drug plan or the MA organization  
8 offering the MA–PD plan does not use a  
9 formulary, for which benefits are available  
10 under the prescription drug plan or MA–  
11 PD plan that the applicable beneficiary is  
12 enrolled in; or

13 “(III) is provided through an excep-  
14 tion or appeal; and

15 “(B) does not include a selected drug (as  
16 defined in section 1192(c)) during a price appli-  
17 cability period (as defined in section  
18 1191(b)(2)) with respect to such drug.

19 “(3) APPLICABLE NUMBER OF CALENDAR  
20 DAYS.—The term ‘applicable number of calendar  
21 days’ means—

22 “(A) with respect to claims for reimburse-  
23 ment submitted electronically, 14 days; and

24 “(B) with respect to claims for reimburse-  
25 ment submitted otherwise, 30 days.

1           “(4) DISCOUNTED PRICE.—

2                   “(A) IN GENERAL.—The term ‘discounted  
3 price’ means, with respect to an applicable drug  
4 of a manufacturer dispensed during a year to  
5 an applicable beneficiary—

6                           “(i) who has not incurred costs, as de-  
7 termined in accordance with section  
8 1860D–2(b)(4)(C), for covered part D  
9 drugs in the year that are equal to or ex-  
10 ceed the annual out-of-pocket threshold  
11 specified in section 1860D–2(b)(4)(B)(i)  
12 for the year, 90 percent of the negotiated  
13 price of such drug; and

14                           “(ii) who has incurred such costs, as  
15 so determined, in the year that are equal  
16 to or exceed such threshold for the year,  
17 70 percent of the negotiated price of such  
18 drug.

19                   “(B) CLARIFICATION.—Nothing in this  
20 section shall be construed as affecting the re-  
21 sponsibility of an applicable beneficiary for pay-  
22 ment of a dispensing fee for an applicable drug.

23                   “(C) SPECIAL CASE FOR CERTAIN  
24 CLAIMS.—

1                   “(i) CLAIMS SPANNING DEDUCT-  
2                   IBLE.—In the case where the entire  
3                   amount of the negotiated price of an indi-  
4                   vidual claim for an applicable drug with re-  
5                   spect to an applicable beneficiary does not  
6                   fall above the annual deductible specified  
7                   in section 1860D–2(b)(1) for the year, the  
8                   manufacturer of the applicable drug shall  
9                   provide the discounted price under this  
10                  section on only the portion of the nego-  
11                  tiated price of the applicable drug that  
12                  falls above such annual deductible.

13                  “(ii) CLAIMS SPANNING OUT-OF-POCK-  
14                  ET THRESHOLD.—In the case where the  
15                  entire amount of the negotiated price of an  
16                  individual claim for an applicable drug  
17                  with respect to an applicable beneficiary  
18                  does not fall entirely below or entirely  
19                  above the annual out-of-pocket threshold  
20                  specified in section 1860D–2(b)(4)(B)(i)  
21                  for the year, the manufacturer of the ap-  
22                  plicable drug shall provide the discounted  
23                  price—

24                                   “(I) in accordance with subpara-  
25                                   graph (A)(i) on the portion of the ne-

1 negotiated price of the applicable drug  
2 that falls below such threshold; and

3 “(II) in accordance with subpara-  
4 graph (A)(ii) on the portion of such  
5 price of such drug that falls at or  
6 above such threshold.

7 “(5) MANUFACTURER.—The term ‘manufac-  
8 turer’ means any entity which is engaged in the pro-  
9 duction, preparation, propagation, compounding,  
10 conversion, or processing of prescription drug prod-  
11 ucts, either directly or indirectly by extraction from  
12 substances of natural origin, or independently by  
13 means of chemical synthesis, or by a combination of  
14 extraction and chemical synthesis. Such term does  
15 not include a wholesale distributor of drugs or a re-  
16 tail pharmacy licensed under State law.

17 “(6) NEGOTIATED PRICE.—The term ‘nego-  
18 tiated price’ has the meaning given such term in sec-  
19 tion 423.100 of title 42, Code of Federal Regula-  
20 tions (or any successor regulation), except that, with  
21 respect to an applicable drug, such negotiated price  
22 shall not include any dispensing fee for the applica-  
23 ble drug.

24 “(7) QUALIFIED RETIREE PRESCRIPTION DRUG  
25 PLAN.—The term ‘qualified retiree prescription drug

1 plan' has the meaning given such term in section  
2 1860D-22(a)(2).”.

3 (2) SUNSET OF MEDICARE COVERAGE GAP DIS-  
4 COUNT PROGRAM.—Section 1860D-14A of the So-  
5 cial Security Act (42 U.S.C. 1395-114a) is amend-  
6 ed—

7 (A) in subsection (a), in the first sentence,  
8 by striking “The Secretary” and inserting  
9 “Subject to subsection (h), the Secretary”; and

10 (B) by adding at the end the following new  
11 subsection:

12 “(h) SUNSET OF PROGRAM.—

13 “(1) IN GENERAL.—The program shall not  
14 apply with respect to applicable drugs dispensed on  
15 or after January 1, 2024, and, subject to paragraph  
16 (2), agreements under this section shall be termi-  
17 nated as of such date.

18 “(2) CONTINUED APPLICATION FOR APPLICA-  
19 BLE DRUGS DISPENSED PRIOR TO SUNSET.—The  
20 provisions of this section (including all responsibil-  
21 ities and duties) shall continue to apply after Janu-  
22 ary 1, 2024, with respect to applicable drugs dis-  
23 pensed prior to such date.”.

24 (3) INCLUSION OF ACTUARIAL VALUE OF MANU-  
25 FACTURER DISCOUNTS IN BIDS.—Section 1860D-11

1 of the Social Security Act (42 U.S.C. 1395w-111)  
2 is amended—

3 (A) in subsection (b)(2)(C)(iii)—

4 (i) by striking “assumptions regarding  
5 the reinsurance” and inserting “assump-  
6 tions regarding—

7 “(I) the reinsurance”; and

8 (ii) by adding at the end the fol-  
9 lowing:

10 “(II) for 2024 and each subse-  
11 quent year, the manufacturer dis-  
12 counts provided under section 1860D-  
13 14C subtracted from the actuarial  
14 value to produce such bid; and”; and

15 (B) in subsection (c)(1)(C)—

16 (i) by striking “an actuarial valuation  
17 of the reinsurance” and inserting “an ac-  
18 tuarial valuation of—

19 “(i) the reinsurance”;

20 (ii) in clause (i), as inserted by clause  
21 (i) of this subparagraph, by adding “and”  
22 at the end; and

23 (iii) by adding at the end the fol-  
24 lowing:

1                   “(ii) for 2024 and each subsequent  
2                   year, the manufacturer discounts provided  
3                   under section 1860D–14C;”.

4           (d) CONFORMING AMENDMENTS.—

5                   (1) Section 1860D–2 of the Social Security Act  
6                   (42 U.S.C. 1395w–102) is amended—

7                           (A) in subsection (a)(2)(A)(i)(I), by strik-  
8                           ing “, or an increase in the initial” and insert-  
9                           ing “or, for a year preceding 2024, an increase  
10                           in the initial”;

11                           (B) in subsection (c)(1)(C)—

12                                   (i) in the subparagraph heading, by  
13                                   striking “AT INITIAL COVERAGE LIMIT”;  
14                                   and

15                                   (ii) by inserting “for a year preceding  
16                                   2024 or the annual out-of-pocket threshold  
17                                   specified in subsection (b)(4)(B) for the  
18                                   year for 2024 and each subsequent year”  
19                                   after “subsection (b)(3) for the year” each  
20                                   place it appears; and

21                                   (C) in subsection (d)(1)(A), by striking “or  
22                                   an initial” and inserting “or, for a year pre-  
23                                   ceding 2024, an initial”.

24                   (2) Section 1860D–4(a)(4)(B)(i) of the Social  
25                   Security Act (42 U.S.C. 1395w–104(a)(4)(B)(i)) is

1 amended by striking “the initial” and inserting “for  
2 a year preceding 2024, the initial”.

3 (3) Section 1860D–14(a) of the Social Security  
4 Act (42 U.S.C. 1395w–114(a)) is amended—

5 (A) in paragraph (1)—

6 (i) in subparagraph (C), by striking  
7 “The continuation” and inserting “For a  
8 year preceding 2024, the continuation”;

9 (ii) in subparagraph (D)(iii), by strik-  
10 ing “1860D–2(b)(4)(A)(i)(I)” and insert-  
11 ing “1860D–2(b)(4)(A)(i)(I)(aa)”;

12 (iii) in subparagraph (E), by striking  
13 “The elimination” and inserting “For a  
14 year preceding 2024, the elimination”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (C), by striking  
17 “The continuation” and inserting “For a  
18 year preceding 2024, the continuation”;

19 and

20 (ii) in subparagraph (E), by striking  
21 “1860D–2(b)(4)(A)(i)(I)” and inserting  
22 “1860D–2(b)(4)(A)(i)(I)(aa)”.

23 (4) Section 1860D–21(d)(7) of the Social Secu-  
24 rity Act (42 U.S.C. 1395w–131(d)(7)) is amended

1 by striking “section 1860D–2(b)(4)(B)(i)” and in-  
2 sserting “section 1860D–2(b)(4)(C)(i)”.

3 (5) Section 1860D–22(a)(2)(A) of the Social  
4 Security Act (42 U.S.C. 1395w–132(a)(2)(A)) is  
5 amended—

6 (A) by striking “the value of any discount”  
7 and inserting the following: “the value of—

8 “(i) for years prior to 2024, any dis-  
9 count”;

10 (B) in clause (i), as inserted by subpara-  
11 graph (A) of this paragraph, by striking the pe-  
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following new  
14 clause:

15 “(ii) for 2024 and each subsequent  
16 year, any discount provided pursuant to  
17 section 1860D–14C.”.

18 (6) Section 1860D–41(a)(6) of the Social Secu-  
19 rity Act (42 U.S.C. 1395w–151(a)(6)) is amended—

20 (A) by inserting “for a year before 2024”  
21 after “1860D–2(b)(3)”; and

22 (B) by inserting “for such year” before the  
23 period.

24 (7) Section 1860D–43 of the Social Security  
25 Act (42 U.S.C. 1395w–153) is amended—

1 (A) in subsection (a)—

2 (i) by striking paragraph (1) and in-  
3 serting the following:

4 “(1) participate in—

5 “(A) for 2011 through 2023, the Medicare  
6 coverage gap discount program under section  
7 1860D–14A; and

8 “(B) for 2024 and each subsequent year,  
9 the manufacturer discount program under sec-  
10 tion 1860D–14C;”;

11 (ii) by striking paragraph (2) and in-  
12 serting the following:

13 “(2) have entered into and have in effect—

14 “(A) for 2011 through 2023, an agreement  
15 described in subsection (b) of section 1860D–  
16 14A with the Secretary; and

17 “(B) for 2024 and each subsequent year,  
18 an agreement described in subsection (b) of sec-  
19 tion 1860D–14C with the Secretary; and”;

20 (iii) by striking paragraph (3) and in-  
21 serting the following:

22 “(3) have entered into and have in effect, under  
23 terms and conditions specified by the Secretary—

24 “(A) for 2011 through 2023, a contract  
25 with a third party that the Secretary has en-

1           tered into a contract with under subsection  
2           (d)(3) of section 1860D–14A; and

3           “(B) for 2024 and each subsequent year,  
4           a contract with a third party that the Secretary  
5           has entered into a contract with under sub-  
6           section (d)(3) of section 1860D–14C.”; and

7           (B) by striking subsection (b) and insert-  
8           ing the following:

9           “(b) EFFECTIVE DATE.—Paragraphs (1)(A), (2)(A),  
10          and (3)(A) of subsection (a) shall apply to covered part  
11          D drugs dispensed under this part on or after January  
12          1, 2011, and before January 1, 2024, and paragraphs  
13          (1)(B), (2)(B), and (3)(B) of such subsection shall apply  
14          to covered part D drugs dispensed under this part on or  
15          after January 1, 2024.”.

16          (8) Section 1927 of the Social Security Act (42  
17          U.S.C. 1396r–8) is amended—

18                 (A) in subsection (c)(1)(C)(i)(VI), by in-  
19                 serting before the period at the end the fol-  
20                 lowing: “or under the manufacturer discount  
21                 program under section 1860D–14C”; and

22                 (B) in subsection (k)(1)(B)(i)(V), by in-  
23                 serting before the period at the end the fol-  
24                 lowing: “or under section 1860D–14C”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to plan year 2024 and  
3 subsequent plan years.

4 **SEC. 139202. ALLOWING CERTAIN ENROLLEES OF PRE-**  
5 **SCRIPTION DRUG PLANS AND MA-PD PLANS**  
6 **UNDER MEDICARE PROGRAM TO SPREAD**  
7 **OUT COST-SHARING UNDER CERTAIN CIR-**  
8 **CUMSTANCES.**

9 Section 1860D–2(b)(2) of the Social Security Act (42  
10 U.S.C. 1395w–102(b)(2)), as amended by section 139201,  
11 is further amended—

12 (1) in subparagraph (A), by striking “Subject  
13 to subparagraphs (C) and (D)” and inserting “Sub-  
14 ject to subparagraphs (C), (D), and (E)”; and

15 (2) by adding at the end the following new sub-  
16 paragraph:

17 “(E) ENROLLEE OPTION REGARDING  
18 SPREADING COST-SHARING.—The Secretary  
19 shall establish by regulation a process under  
20 which, with respect to plan year 2024 and sub-  
21 sequent plan years, a prescription drug plan or  
22 an MA–PD plan shall, in the case of a part D  
23 eligible individual enrolled with such plan for  
24 such plan year who is not a subsidy eligible in-  
25 dividual (as defined in section 1860D–14(a)(3))

1           and with respect to whom the plan projects that  
2           the dispensing of the first fill of a covered part  
3           D drug to such individual will result in the indi-  
4           vidual incurring costs that are equal to or above  
5           the annual out-of-pocket threshold specified in  
6           paragraph (4)(B) for such plan year, provide  
7           such individual with the option to make the co-  
8           insurance payment required under subpara-  
9           graph (A) (for the portion of such costs that  
10          are not above such annual out-of-pocket thresh-  
11          old) in the form of periodic installments over  
12          the remainder of such plan year.”.

13       **PART 4—REPEAL OF CERTAIN PRESCRIPTION**

14                               **DRUG REBATE RULE**

15       **SEC. 139301. PROHIBITING IMPLEMENTATION OF RULE RE-**  
16                               **LATING TO ELIMINATING THE ANTI-KICK-**  
17                               **BACK STATUTE SAFE HARBOR PROTECTION**  
18                               **FOR PRESCRIPTION DRUG REBATES.**

19           Beginning January 1, 2026, the Secretary of Health  
20       and Human Services shall not implement, administer, or  
21       enforce the provisions of the final rule published by the  
22       Office of the Inspector General of the Department of  
23       Health and Human Services on November 30, 2020, and  
24       titled “Fraud and Abuse; Removal of Safe Harbor Protec-  
25       tion for Rebates Involving Prescription Pharmaceuticals

1 and Creation of New Safe Harbor Protection for Certain  
2 Point-of-Sale Reductions in Price on Prescription Phar-  
3 maceuticals and Certain Pharmacy Benefit Manager Serv-  
4 ice Fees” (85 Fed. Reg. 76666).

